

1 IN THE COUNTY OF WASHINGTON

2
3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY
4 VIRGINIA GAS AND OIL BOARD
5
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8 APRIL 18, 2006
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11 APPEARANCES:

12 **BOARD MEMBERS:**

13 PEGGY BARBAR - PUBLIC MEMBER
14 MARY QUILLEN - PUBLIC MEMBER
15 BILL HARRIS - PUBLIC MEMBER
16 DONALD RATLIFF - COAL REPRESENTATIVE

17 **CHAIRMAN:**

18 BENNY WAMPLER - DEPUTY DIRECTOR OF THE DMME AND CHAIRMAN

19 **COUNSEL:**

20 SHARON PIGEON - ASSISTANT ATTORNEY GENERAL
21

22 BOB WILSON - DIRECTOR OF THE DIVISION OF GAS & OIL AND
23 PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD
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INDEX

AGENDA AND DOCKET NUMBERS:

UNIT

PAGE

1)	Escrow Report		3
2)	VGOB-05-0315-1420-02	825404	5
3)	VGOB-05-1213-1548		6
4)	VGOB-06-0321-1604	27-06	CONT.
5)	VGOB-05-1115-1532-01	VC-536616	CONT.
6)	VGOB-05-1115-1533-05	VC-536474	CONT.
7)	VGOB-05-1115-1537-01	VC-536475	CONT.
8)	VGOB-06-0321-1608	VC-536622	CONT.
9)	VGOB-06-0418-1614		28
10)	VGOB-06-0418-1615	V-8	37
11)	VGOB-06-0418-1616	W-4	47
12)	VGOB-04-0921-1333-01	EE-13	53
13)	VGOB-04-0921-1334-01	EE-14	54
14)	VGOB-98-0915-0681-02	S-35	66-CONT.
15)	VGOB-98-0324-0626-04	S-36	CONT.
16)	VGOB-98-0421-0695-02	T-35	CONT.
17)	VGOB-98-0324-0625-04	T-36	CONT.
18)	VGOB-98-0421-0648-01	U-36	CONT.
19)	VGOB-06-0418-1617	V-536809	94
20)	VGOB-06-0418-1618	VC-536560	100

1	21)	VGOB-06-0418-1619	VC-535864	112
2	22)	VGOB-06-0418-1620	VC-505205	118
3	23)	VGOB-06-0418-1621	V-536718	123
	(INDEX CONT.)			
4		<u>INDEX</u>		
5	<u>AGENDA AND DOCKET NUMBERS:</u>		<u>UNIT</u>	<u>PAGE</u>
6	24)	VGOB-06-0418-1622	V-536395	129
7	25)	VGOB-06-0418-1623	V-536888	142
8	26)	VGOB-06-0418-1624	825526	150
9	27)	VGOB-06-0418-1625	825526	159
10	28)	VGOB-06-0418-1626	825525	168
11				
12				
13	*Approve minutes			174
14	**Public Comments			174
15				
16				
17				
18				

19 BENNY WAMPLER: Okay. We'll go ahead and get started. Good
20 morning. My name is Benny Wampler. I'm Deputy Director for the Department of
21 Mines, Minerals and Energy and Chairman of the Gas and Oil Board. I'll ask the
22 members to introduce themselves starting with Ms. Quillen.

23 MARY QUILLEN: Mary Quillen, Director of Academic Programs for
24 the University of Virginia here at the Higher Education Center. I'm a citizen

1 member.

2 PEGGY BARBAR: My name is Peggy Barbar. I'm Dean of
3 Engineering at Southwest Virginia Community College. I'm a public member.

4 BILL HARRIS: I'm Bill Harris from Big Stone Gap, a public member.

5 SHARON PIGEON: I'm Sharon Pigeon with the office of the
6 Attorney General.

7 DONNIE RATLIFF: Donnie Ratliff, representative from the coal
8 industry and I'm from Wise County.

9 BOB WILSON: I'm Bob Wilson. I'm the Director of the Division of
10 Gas and Oil and Principal Executive to the staff of the Board.

11 BENNY WAMPLER: Thank you. We have several people here. I
12 would ask you if you have cell phones, please turn them off because that will help.
13 Put them on vibrate or something like that. The first item on the agenda, the
14 Board will receive a quarterly report on the Board's escrow account as
15 administered by the Wachovia Bank Escrow Agent. We'd ask the...Mr. Wilson to
16 give us an update. You've given us a handout this morning.

17 BOB WILSON: Yes, sir. I've given each of you a copy of the report.
18 Let me say at the onset that I just got this report this morning. There are some
19 problems with it that we're going to have to get straightened out here. But I will
20 tell you what the situation is as we have it. We started the quarter with a balance
21 of \$12,726,403.27. During the quarter, we received deposits of \$1,007,581.45
22 and interest of \$120,016.68. During the quarter, we disbursed \$238,894.38 total.
23 If you look in the body of the letter there, you'll see that the writer inserted the

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1 interest payment as deposits and did not acknowledge the deposits in that body.
2 We will get this corrected. Also, the \$30,000 semi-annual deduction for bank fees
3 was taken out in March. That was not deducted from the total down here. So,
4 that actually leaves a total for the end of the quarter at \$13,585,107.02. We're
5 currently getting an interest rate of 4.38%.

6 BENNY WAMPLER: Any questions from members of the Board?

7 (No audible response.)

8 BENNY WAMPLER: Thank you, Mr. Wilson. The next item on the
9 agenda is a petition from Columbia Natural Resources, LLC for repooling of
10 conventional unit 825404. This is docket number VGOB-05-0315-1420-02. This
11 was continued from February. We'd ask the parties that wish to address the
12 Board in this matter to come forward at this time.

13 (No one comes forward.)

14 BENNY WAMPLER: No parties. All right. I'll leave it on the agenda
15 and put it last and see if anybody shows up. The next item on the agenda is a
16 petition from John Sheffield requesting escrow funds attributable to the conflicting
17 interest underlying the properties belonging to the Trusts, Big Prater, Hurricane
18 Creek, Russell Fork in Buchanan County. This is docket number VGOB-05-1213-
19 1548, continued from March. We'd ask the parties that wish to address the Board
20 in this matter to come forward at this time.

21 BOB WILSON: Mr. Chairman.

22 BENNY WAMPLER: Mr. Wilson.

23 BOB WILSON: While these parties are coming forward, I would like
24

1 to acknowledge for the record that yesterday I received an email communication
2 from J. Scott Sexton, attorney with Gentry, Locke, Rakes and Moore. A letter
3 stating, "Our firm has been engaged by Levisa Coal Company and the Levisa Oil
4 and Gas Owners to represent their interest in connection with a miscellaneous
5 petition that has been filed to be heard before the Board on April the 18th, 2006
6 meeting of the Board. We plan to attend that hearing, along with a representative
7 of our client. We request the opportunity to be heard. We are also including an
8 objection and response that we ask you file and circulate on behalf of our client.
9 By copy of this letter, I am electronically serving a copy of these documents to
10 Counsel for the petition." It's signed J. Scott Sexton. I have a copy of the
11 document with attachments for each Board member.

12 (Bob Wilson passes out copies of the letter and attachments.)

13 BENNY WAMPLER: Let's take a few minutes until the Board reads
14 this.

15 (Board members review the letter and attachments.)

16 PETER GLUBIACK: Mr. Wampler, for the record, this is illustrating
17 my point that I'm about to make and my objection. This entire brief was filed
18 improperly and without notice. We got it 5:00 o'clock yesterday afternoon.
19 Obviously, I don't have a brief to respond because I didn't get it until 5:00 o'clock
20 from Mr. Wilson. So, I'm going to...you know, the five minutes that everybody has
21 been furiously reading this thing are an illustration of my point that I object to this
22 being filed at all. If this were to be submitted with a chance to respond, it would
23 be a different story.

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1 BENNY WAMPLER: I note your objection.

2 (Off record.)

3 BENNY WAMPLER: We're back on the record. Come to order,
4 please. We're back on the record. You may proceed.

5 PETER GLUBIACK: Thank you, Mr. Wampler. Members of the
6 Board and ladies and gentlemen, my name is Peter Glubiack. I represent Mr.
7 John Sheffield and actually for the record both of the Trusts involved, both his
8 Trust and his brother's Trust, involved in a miscellaneous petition. Just to refresh
9 your recollection briefly, it was filed by him as Trustee in November of last year.
10 He appeared before this Board in December of '05. I was not present at that time.
11 However, the record reflected that he was asked to provide further information at
12 that time. There was no...to my knowledge, there was no discussion of who...who
13 got notice and who didn't get notice. To my knowledge, it hasn't come up. I
14 would note that he was asked to provide information. We have that information
15 for you today.

16 Once again, when Mr. Sheffield enquired, I believe he spoke with
17 Mr. Wilson, about the issue of his ownership of the Trusts' ownership to the
18 coalbed methane and, therefore, entitlement to the royalties under a lease which
19 we will get into, he was told that it would be appropriate to file a miscellaneous
20 petition. A miscellaneous petition, just for...just again for your benefit, are covered
21 under the regulation at 4 VAC 25-160-140. It indicates that he has to give notice.
22 We're not dealing with notice here, because I understand that's going to be an
23 objection today, to the respondent. He did so. The respondent in his petition was

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1 CNX and he did provide notice and Mr. Swartz was aware and my understanding
2 was at the December meeting and was at the March meeting last month when you
3 told him he had to come back with his lawyer and that's me. So, we're here today.

4

5 I want to...before I get into the merits or the discussion of the claim
6 or the reason for the miscellaneous petition, I want to make two objections for the
7 record. First one being, Mr. Sheffield and Mr. Sexton had a legal relationship in
8 terms of some work that Mr. Sexton did. I'm not the ethics committee of the bar
9 nor are you. I would note for the record that Mr. Sheffield has asked me to object
10 to Mr. Sexton's appearance today on behalf of whoever, presumably Levisa Coal
11 and the other members. Again, that's between Mr. Sheffield and Mr. Sexton.

12 The second objection, however, involves today and that's that I do
13 object strenuously to the ten minute exercise that you just went through. It seems
14 to me that whenever I have discussed filing things with Mr. Wilson there has
15 always been requirement, number one, that it be done timely and primarily that it
16 be done in such a way that it gets in your package so you have this information so
17 that you can deal with it in an appropriate manner and read it and not read it fastly
18 and furiously at the hearing in front of all of these people who are waiting to go on
19 with their cases today. So, I object to the way it was filed. I object to the time it
20 was filed. Certainly, as I said, I indicated that I object to Mr. Sexton filing it at all.
21 So, I would simply ask that it be disregarded. You know, I guess, it is what it is.
22 It's there in front of you. You've looked at it. We have obviously not had a
23 chance to respond in writing. We're going to respond briefly in our testimony

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1 today. But it's our premise that the objection is that it was not...filing by email
2 yesterday afternoon was certainly not timely enough to give anybody notice or
3 give anybody an opportunity to respond. So with that, I'll stop my objections.

4 What I would like to do is turn to the substance or the merits of the
5 original reason for the miscellaneous petition being filed by Mr. Sheffield on
6 behalf of both respective Trusts. And I'd like...he's got some packets I'd like him
7 to...I don't know if Mr. Wilson...do you want to give them out or do you want him to
8 just---?

9 JOHN SHEFFIELD: Do you want me to do it?

10 PETER GLUBIACK: Just...again, this is information that you
11 requested at the December meeting and he was unable to present last month.

12 (John Sheffield passes out the information.)

13 PETER GLUBIACK: Now---.

14 BENNY WAMPLER: Let's...let's go ahead and...obviously, notice
15 has been raised. Let's stick on that point for a second and let me hear from Mr.
16 Swartz.

17

18 PETER GLUBIACK: Let me...fine. Let me respond to that before we
19 get into the other parts of the case. Our position, and we discussed this just
20 yesterday with Mr. Wilson, is that this was filed as a miscellaneous petition.
21 Under 25-161.40, obviously, that information has to be contained. I have a copy
22 of the miscellaneous petition. I'm sure you have it in front of you. The respondent
23 in this case, and this was pursuant to earlier correspondence that Mr. Sheffield

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1 had with various people at CNX was, we think you should be...I think you should
2 be escrowing money. My grandmother entered into a lease where she was to be
3 paid royalties based on her interest in the coalbed methane. You never did that.
4 We later found out that there's a lot more to it. But essentially the facts are that
5 there was a lease entered in '89. It was not honored insofar as any payments to
6 either Ms. Pobst, Mr. Sheffield's grandmother, or the Trust since that date. He
7 determined that he thought there was wrong with that. He was instructed to file a
8 miscellaneous petition to address that issue before the Board that alleged that in
9 fact there is a conflict and, therefore, under 45.1-361.22(A), "When there are
10 conflicting claims to the ownership of the coalbed methane gas, the Board upon
11 application from any claimant shall...shall enter an order pooling the interest."
12 Now, this is not a force pooling order. This is not a pooling application. It's not
13 governed by the rules of 362.1-22 or 25 or any of the ones that deal with pooling.
14 This is simply saying when this lease was entered into, Mr. Sheffield's
15 grandmother was to receive royalty. She never received it. We think that's
16 wrong. We think he has a claim. The merits of that claim, obviously, are for a
17 Court of law and will be litigated at some length by all kinds of lawyers. But it's
18 not...this Board, fortunately, doesn't have to decide the merits of the claim. I know
19 in Mr. Sexton's brief, there's a long discussion of why we're barking up the wrong
20 tree and we have no claim, et cetera. But the fact is, this was filed as a
21 miscellaneous petition pursuant to instructions by the Director of the Board. Mr.
22 Sheffield has followed all of the rules. He has given the appropriate notice to the
23 respondent CNX and we're here this morning to ask you to order that the

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1 claimant...I'm sorry, to order that the royalties be escrowed. Notice was provided
2 pursuant to the regulations to the appropriate party, return receipt requested, and
3 we have a copy of that with us today. Mr. Sheff...Mr. Sexton's clients were not
4 respondents named in the petition. There was no reason to have to name them.
5 They weren't named and they weren't noticed.

6 My second point, however, is after...after that, that argument is a
7 legal technicality. What I would point out is there is such a thing as actual notice.
8 I would put out pretty simply that clearly these folks have actual notice because
9 they came with a lawyer and a nine page brief. I think to argue that they're caught
10 off guard, surprised and not able to respond is approaching ludicrous given the
11 brief, the appearance and, you know, Mr. Sexton's argument. So, he didn't have
12 to get notice. His clients didn't have to get notice. They didn't get notice. But
13 they have actually clearly have an actual notice and they've had it for some time.

14 So, the notice the requirement is merely delaying the process. The
15 only reason to do it would be to afford them an opportunity to look at this matter
16 and respond. They have clearly already done so. I think it's...it would be
17 ridiculous to say go back and do what you already did again. So, that's my
18 argument on notice. Number one, it's not required by the regulation or the
19 statute. Number two, they clearly have notice.

20 BENNY WAMPLER: Mr. Swartz.

21 MARK SWARTZ: The regulation with regard to notice of
22 hearings...irregulation as opposed to the code section 19, at B:2 says, "In the
23 case of an application to vacate or amend an order, identification of the order to
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1 be modified and then notice to each person having an interest underlying the tract
2 or tracts to be affected by the proposed modification.” You know, I think Mr.
3 Glubiack is, you know, doing the best he can to work with the paperwork that was
4 filed here. But in essence, the substance of the relief that is being sought is to
5 amend a multitude of Board orders. I mean, if you look at the list of units that we
6 got this morning...by the way, I get stuff at hearings, you know, at the last minute
7 all the time and my life goes on. You know, I sort of deal with it. I mean, that’s the
8 way things happen. But I counted these and I count 80 units in these two
9 columns. I don’t know how many of them are voluntary units and how many are
10 subject to Board orders. But, you know, there’s 80 units here. I imagine that
11 some of them have Board orders. You know, the procedure that’s required under
12 the Code and under the Board rules would require, and I don’t care if you call this
13 a petition to modify or amend or a miscellaneous petition, the sum and
14 substantive of this is to change escrow provisions in orders that this Board has
15 previously entered. So, I don’t care what you call it. I mean, that’s...that’s what
16 they want you to do here. They want you to order my client to hold funds in this
17 collection of units. You know, once that happens, my client doesn’t really care
18 because we’re not holding...we’re holding somebody else’s money. But the
19 reason for the notice provision, obviously, the operator would like to know, you
20 know, what’s going on, but the actual reason is if the Board is going to hold
21 somebody’s money or money that someone thinks is theirs at someone else’s
22 request, you probably, as a matter of due process and I think the statute...you
23 know, the act and the regulations recognize that, you probably need to tell the

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1 people whose money you are seeking to turn off and put into escrow very
2 specifically and that's what these rules require.

3 So, you know, at a minimum, whether you call it a petition to modify
4 or a miscellaneous petition, we need a petition which identifies every Board order
5 they're seeking to modify. We need a petition which lists respondents all of the
6 folks who would be effected by the modification that they're seeking and the
7 interest in tracts. So we kind of need, you know, a title exhibit to that. We don't
8 have that. You know, if...if I showed up with this kind of request, you guys would
9 laugh me out of here. You know...I mean, you know, there's a minimum of work
10 that needs to be done, you know, and you need to identify the orders, identify the
11 people and you need to give notice by certified mail. So, you know, I think that
12 ball has completely been fumbled here. You know, I just don't see that you can
13 proceed. I don't get to the merits. I'm just talking procedural.

14 BENNY WAMPLER: I'm not asking for merits at this point. Mr.
15 Sexton, if you'll just state your full name for the record, please.

16 J. SCOTT SEXTON: My name is J. Scott Sexton. I'm here as
17 attorney for Levisa Coal Company and the Levisa gas and oil mineral owners. I
18 agree with the comments that were just made by Mr. Swartz on behalf of CNX. I
19 will point out, in addition to his comments, that the regulation 4 VAC 25-160-90
20 sets out standards for escrow accounts and it anticipates a unit operator filing a
21 miscellaneous petition to establish an escrow. Obviously, the petitioner here is
22 not the unit operator. But they have filed it against a unit operator. It states in
23 there, "In addition, the unit operator of a drilling unit subject to a pooling
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1 agreement may petition the Board under 25-160-140 for an order authorizing the
2 escrow of funds.” So, that’s....that’s the person who would be entitled to bring a
3 miscellaneous petition. If they did bring a miscellaneous petition, Mr. Swartz is
4 correct, you have to give notice to all the oil and gas unit owners.

5 I believe that Mr. Glubiack’s statements about being surprised by an
6 eight page brief on the law and the facts, most of which are contained within the
7 petition as far as the facts, is somewhat hollow in light of the fact that he has just
8 now presented the 80 units that we’re suddenly here about. In fact, there should
9 be a petition for each one of these units, each well, amending the order and
10 that’s...those are the regulations and in the Code Sections that I’ve cited to the
11 Board. There is no provision within the Code that allows waiver of that for actual
12 notice. The fact that we are here, there are plenty of people who have some
13 interest as oil and gas owners in these units who are not here and have
14 absolutely no...no knowledge of this. So, in that sense, the rules are the rules
15 and they have not been complied with. It seems to me to be pretty self-
16 explanatory that if you are going to affect the escrow of royalties that are being
17 paid and in some instances have been paid for ten or eleven years, to give notice
18 to those parties is a bare minimum and that wasn’t done here. But I would
19 anticipate that if there are 80 units, there are probably at least double that number
20 of wells. I certainly don’t know because we haven’t been given...given the exact
21 units and wells. But a separate petition should be filed on behalf of each...each
22 one of those modifying the order and the Code and the regulation sections that
23 I’ve cited clearly establish that and that’s really the only comments I have on the

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1 procedure.

2 BENNY WAMPLER: Do you have any rebuttal?

3 PETER GLUBIACK: Yes. I guess my rebuttal is that it...again, I'd
4 reiterate my statement about following the procedural rules under what we
5 thought were the guidelines here. I'd ask the Court...the Board to if, in fact, there
6 is going to be a...if, in fact, notice is determined not to be given to appropriate
7 parties that we get some...you know, the Board itself take upon itself that this is an
8 unusual situation. It involves a lot of units. Imposing the burden on Mr. Sheffield
9 to...also, he doesn't have this information. This information took weeks for him to
10 come up with because CNX, in fact, is the one that has this information. I mean,
11 they have notice. Our position is we did what work we were suppose to do. But if
12 we're suppose to notify, this is not a repooling process. This ought to be...you
13 know, if we're able to afford notice to the people that we can get the list from
14 someone, then we should be able to proceed under those rules. But this is not a
15 full blown repooling. This is just simply an escrow claim being made by a claimant
16 asking you to put this money aside. What I want you to also remember, lost in all
17 of this technical stuff, is that we're simply asking while we say it's our money, that
18 it be parked with the Gas and Oil Board where it's suppose to be if it's under
19 dispute. It may well belong to Mr. Sexton's clients and others. But they chose
20 to...we think they chose to stop paying the rightful owner of the coalbed methane
21 royalties and we have a claim. So, you know, we just want to know that the
22 money is somewhere it is being counted and kept track of and that the appropriate
23 authority under the statute is you. So, we'd like to proceed and we think notice

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1 has been given. We think we followed the regulations and the statute. We'll
2 leave it at that.

3 BENNY WAMPLER: Questions from members of the Board?

4 MARY QUILLEN: Mr. Chairman, I have a question for Mr. Sexton.
5 In these units, there could be a very small number of owners that are currently
6 receiving royalties to a very large number that holds very small percentages,
7 based on what we have seen in other cases. You may have just a few owners,
8 but you may have a very long list of owners. Is that correct? Is that what you're
9 saying?

10 J. SCOTT SEXTON: That's...that's my understanding. In this case,
11 it would vary. In some units, it may be entirely Levisa and the Levisa oil owners
12 and gas owners and then in others there may be a big mixture. So, the few that I
13 sampled, that was the case. I pulled, I believe, three units and sampled those and
14 that was the case.

15 MARY QUILLEN: That was out of the total of 80 units?

16 J. SCOTT SEXTON: Right, right.

17 BENNY WAMPLER: Other questions from members of the Board?

18 MARY QUILLEN: Mr. Chairman, just one additional question---

19 BENNY WAMPLER: Ms. Quillen.

20 MARY QUILLEN: ---for Mr. Sexton. Did you look at how long these
21 royalties had been paid to those folks that you drew from the sample?

22 J. SCOTT SEXTON: I did not. The wells that I did pull from
23 different time periods, I went back to the Consol Energy period, I think, one was in
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1 the mid '90s and then one more recently and then I can't remember when the third
2 one was. But the production on this property, I believe, goes back to the very
3 early '90s.

4 MARY QUILLEN: Okay.

5 DONNIE RATLIFF: Mr. Chairman.

6 BENNY WAMPLER: Mr. Ratliff.

7 DONNIE RATLIFF: Why would you think you shouldn't notice all
8 these...and there could be hundreds, all these people? What's your argument
9 that you should not give notice to those---?

10 PETER GLUBIACK: Because we're not repooling. We're not
11 amending the repooling order, although Mr. Sexton and maybe Mr. Swartz might
12 argue that. What we're asking you to do is we have a claim against that money
13 that has been paid. In fact, we have a claim retroactively against the money that
14 has been paid. But going forward, we filed a claim. There is not a lot...obviously,
15 there's not a lot of case law. There is not a lot of law. This hasn't happened
16 before. This is a pretty substantial matter. I mean, we're claiming virtually, you
17 know, 25% of the royalties for fifteen years on a 100...I'll agree it's probably
18 somewhere between 130 and 160 wells. It's a lot of money, a whole bunch of
19 money. We followed the procedure. I think that making us file a 136 different
20 miscellaneous petitions for a 136 wells is unduly burdensome. In fact, I'd point
21 out that the vast majority of these units are either Levisa or one of the Levisa
22 Heirs, people or a very limited number of people. This is not going to be a case
23 where you have the 3600 O. H. Keene heirs. This is...this is a different situation.

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1 This was controlled by a big company dealing with another big company that
2 unilaterally decided in 1990 to cut Ms. Pobst out the loop and said forget, you're
3 out of here. We're not going to pay you. Then they filed documents saying, we're
4 not going to pay you because we say so. Mr. Sexton has filed in his brief,
5 paragraph number six, it says, "It was later confirmed that Jessie Mae Pobst,
6 Lucille Vickers and others, had no CBM interest." Well, that's garbage as far as
7 I'm concerned. It's not true. It wasn't legal. That's what we're going to litigate.
8 But in the meantime, we're asking you all, under the statute, "...shall escrow the
9 money when there is a conflicting claim". Now, in the end, if it makes you feel
10 better and you want us to go back and give notice, it's silly for me to sit here and
11 argue, we should do that. But, you know, let us give notice to all those parties
12 involved and we'll go forward and we'll come back next month.

13 BENNY WAMPLER: I think that we probably need to hear from Ms.
14 Pigeon on the legality because we've heard the arguments here. I think that's
15 what we boil down...we're not helping anybody going forward if, in fact, you've got
16 a notice issue That's why I parked us---

17 PETER GLUBIACK: I understand.

18 BENNY WAMPLER: ---on the notice issue.

19 SHARON PIGEON: Well, I do think we have a notice issue. You
20 know, I'm sympathetic to what you're saying. But I don't see how we can avoid it.
21 We're basically looking at due process here and a potential taking of the people
22 that are getting money now. So, for them not to have notice is calling in a
23 constitutional question from the jumpstart. I do think, having just look again at the
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1 regs and the statute that we're primarily referring to, that notice is specifically
2 referred to there. It's not spelled out as clearly perhaps as it should be. But it is
3 there. I don't think there is any question it's called for. I have to say, I think
4 you're going to have to file this per unit. I have no experience, other than when
5 we're dealing with horizontal drilling petitions or something of that nature, where
6 those units are being tied into a single operation where we can deal with more
7 than one unit per petition.

8 PETER GLUBIACK: Well, since we've gotten to that point, let me
9 ask then, are these going to be filed...is this going to...matter going to be...can it
10 be continued to address notice or are we going to refile? I mean, that's what I'm
11 asking now. Let's...let's continue it to address the notice issue.

12 BENNY WAMPLER: We'll continue it to address notice sure, I
13 mean, because it was...you know, as far as you having the opportunity to be
14 heard, you had the opportunity to be heard here. We can continue it. We've
15 done...you know, we've had lots of people go out and cured notice at subsequent
16 hearings. So, you know, if you need two months or whatever you need, we'll...you
17 know, we'll be reasonable with that.

18 PETER GLUBIACK: Well, we've got the addresses. We can get the
19 notice out this week. If we can be back on the May docket, we'd like to be back
20 on the May docket.

21 BENNY WAMPLER: Mr. Swartz.

22 MARK SWARTZ: Just so we don't keep coming back. You know, I
23 think we need to see a petition that lists the orders that are being...that are sought

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--

1 to be amended. I mean, we---.

2 BENNY WAMPLER: Right.

3 MARK SWARTZ: ---got an exhibit this morning. It looks like they
4 may have already done that work. But maybe we need an amended petition that
5 says, you know, here are the respondents and we're going to mail to them and
6 here are the units and here are the orders that we're seeking to modify so that we
7 can kind of make one trip, you know. I mean...and I must say, you know, we don't
8 always agree, I think there is a history of combining some of this miscellaneous
9 stuff into one. I would, you know, encourage the Board to think about that and
10 give Mr. Glubiack some guidance, you know, as to whether or not we can make
11 one trip. It seems like he has got one issue. If he gets the notice right and he
12 identifies the Board orders he's talking about, you know, we can be back on that.
13 I mean, I'm not ask you to stipulate to that. But, I mean, I'm thinking that, you
14 know, we don't need to make a 160 trips here if this is the issue. We should just
15 make one, I mean, for all of us for judicial economy or whatever.

16 PETER GLUBIACK: Scott, do you want to...I have a comment to
17 make. Do you want to comment?

18 J. SCOTT SEXTON: No, go ahead.

19 MARK SWARTZ: Go ahead.

20 PETER GLUBIACK: Taking to heart what Mr. Swartz just
21 addressed, an amended petition, names of all of the individuals involved in the
22 units and I'm assuming...I'm asking because it's a lot of paperwork, I'm just citing
23 the force pooling order...unit order. I'm not going to attach a 160 force pooling
24

1 unit orders.

2 MARK SWARTZ: Right.

3 BENNY WAMPLER: We're not asking you to do that.

4 PETER GLUBIACK: I'm just going to cite force pooling order X, Y
5 and Z for unit so and so, and finally a notice of hearing for next month's meeting.

6 MARK SWARTZ: You may have trouble mailing all of these people
7 within...you know, it might---.

8 BENNY WAMPLER: That's why I said you may want two months.

9 MARK SWARTZ: ---take you 60 days to do this.

10 BENNY WAMPLER: That's a lot. It could be a lot. I mean, I don't
11 know how many people. But---.

12 PETER GLUBIACK: Well---.

13 BOB WILSON: Mr. Chairman, excuse me, I think I can address that.
14 The deadline for May---.

15 PETER GLUBIACK: Was Friday.

16 MARK SWARTZ: Right. So, you're in a---.

17 PETER GLUBIACK: Well, except we're continuing it.
18 So---.

19 MARK SWARTZ: Well, but you've got to give notice is the problem.
20 You've got...well, whatever.

21 PETER GLUBIACK: Objections can be filed at 5:00 o'clock the
22 afternoon before, but a 30 day notice is not timely. That's my problem.

23 MARK SWARTZ: No, you have to mail...there's a deadline for
24

1 mailing---.

2 PETER GLUBIACK: I understand that.

3 MARK SWARTZ: ---and publication is the problem.

4 PETER GLUBIACK: We'll take...we'll say June. What date is the

5 June---?

6 MARK SWARTZ: It's the third Tuesday.

7 PETER GLUBIACK: The third Tuesday?

8 BENNY WAMPLER: The third Tuesday in June.

9 JIM KAISER: It would be the 16th.

10 BENNY WAMPLER: I'm sorry?

11 JIM KAISER: I believe, it would be the 16th.

12 DONNIE RATLIFF: The 20th.

13 BOB WILSON: The 20th.

14 PETER GLUBIACK: Oh, it's the 20th.

15 BENNY WAMPLER: He's trying to trick us again.

16 MARK SWARTZ: Guys, what are you doing? What are you doing,

17 you know?

18 SHARON PIGEON: You're not sworn.

19 BENNY WAMPLER: Okay. All right.

20 PETER GLUBIACK: June the 20th. We'll...so, we're asking the

21 Board to continue this matter for appropriate notice and filing of an amended

22 petition by the June the 20th hearing.

23 BENNY WAMPLER: It shall be continued. Thank you folks.

24

1 PETER GLUBIACK: Mr. Chairman, we're going to leave the
2 substantive material with the Board members. We're not going to resubmit that
3 information.

4 JOHN SHEFFIELD: Do you want us to pick it up?

5 BENNY WAMPLER: No, we've got it right here. Thank you. I also
6 had information that the docket...the second docket item is withdrawn, is that
7 correct?

8 JIM KAISER: It will be, yeah. It will be withdrawn.

9 BENNY WAMPLER: All right. Thank you. The next item on the
10 agenda is a petition from EOG Resources, Inc. for creation and pooling of a
11 conventional gas unit Plum Creek Number 27-06. This is docket number VGOB-
12 06-0321-1604. We'd ask the parties that wish to address the Board in this matter
13 to come forward at this time.

14 TIM SCOTT: Mr. Chairman, Tim Scott for EOG Resources.

15 JIM KAISER: Jim Kaiser for Equitable Production Company. If we
16 can go back for just a minute to number two, we would ask that on behalf of
17 Columbia...on Chesapeake Appalachia, LLC we'd ask that that petition be
18 withdrawn. We have refiled it for the May docket with what we think is the final
19 and Exhibit B.

20 BENNY WAMPLER: Okay, the docket number VGOB-05-0315-
21 1420-02 is withdrawn. Okay, you may proceed.

22 TIM SCOTT: Mr. Kaiser's client, Equitable, and my client are trying
23 to reach an agreement on that next item, the EOG item. We ask that that be
24

1 continued until May, please.

2 BENNY WAMPLER: Okay. It will be continued. Thank you. The
3 next item on the agenda is a petition Equitable Production Company for repooling
4 of coalbed methane unit VC-536616. This is docket number VGOB-05-1115-
5 1532-01. We'd ask the parties that wish to address the Board in this matter to
6 come forward at this time.

7 JIM KAISER: Mr. Chairman, Jim Kaiser on behalf of Equitable
8 Production Company. Again, if you could go ahead for purposes of this month's
9 hearing, go ahead and call also six, seven and eight, we're going to ask that all
10 four of those, again, be continued until May. My client and Mr. Scott's client are
11 trying to work out an agreement on those four petitions.

12 BENNY WAMPLER: All right. We're also continuing then docket
13 number VGOB-05-1115-1533-01, 1537-01 and VGOB-06-0321-1608. Is that
14 correct?

15 TIM SCOTT: Thank you.

16 JIM KAISER: Thank you.

17 BENNY WAMPLER: Thank you. Those are continued. The next
18 item on the agenda is a recommendation by the Division of Gas and Oil to impose
19 civil charges against CNX Gas Company. This is docket number VGOB-06-0418-
20 1614. We'd ask the parties that wish to address the Board in this matter to come
21 forward at this time.

22 BOB WILSON: Mr. Chairman, Bob Wilson. I'll be appearing in this
23 issue as the Director of the Division of Gas and Oil.

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1 MARK SWARTZ: Mark Swartz and Les Arrington.

2 RICK COOPER: Rick Cooper, Gas and Oil Inspector.

3 BENNY WAMPLER: You may proceed, Mr. Wilson.

4 BOB WILSON: The Division of Gas and Oil is recommending the
5 assessment of civil charges in the amount of \$1,500 against CNX Gas Company,
6 LLC. This is subsequent to the issuance of a notice of violation issued on March
7 the 10th, 2006 and the actions that led up to that violation. This in accordance
8 with the civil charge procedural rule adopted by the Board under docket number
9 92-0529-0226. It was executed on June the 11th of 1992. All of you should have
10 a copy of that procedural rule. I believe, it went out with your Board packet and
11 the letter of notice that was sent to CNX.

12 The decision to seek these civil charges were based on the
13 following factor from Section 2 of the rule. The violation resulted in or could have
14 reasonable have been expected to have resulted in harm to the public safety or
15 general welfare. Notice of violation that led to this recommendation is NOV #1654
16 for failure to submit for approval a worker's safety plan prior to the drilling into or
17 near an active mine as required by Regulation Section 4 VAC 25-150-560 of the
18 Virginia Gas and Oil Regulation. The operation involved was CBM H44A, permit
19 number 6861, DGO file #BU2949. I'd like to say at the outset here that we are not
20 implying that the operator acted in a wanton or reckless manner in this regard.
21 We're here because the lack of diligence caused an incident that could have
22 resulted in the loss of human life.

23 I want to start off by asking Rick Cooper, who is the inspector of the
24

1 area where this occurred; he's also the person who discovered this problem.
2 When he finishes his testimony, I'll review our recommendation for the basis. Mr.
3 Cooper hasn't testified before the Board before. So, we'll ask that he gives us a
4 very brief run down on his qualifications. Do we need to swear him, I guess, and
5 me, I guess?

6 (Leslie K. Arrington, Bob Wilson and Rick Cooper are duly sworn.)

7 MARK SWARTZ: You need to make his retroactive.

8 BOB WILSON: How far?

9 RICK COOPER: My name is Rick Cooper. I'm a gas and oil
10 inspector with the Division of Gas and Oil. My educational background is I have a
11 mining engineering degree from Bluefield State College, which is in Bluefield,
12 West Virginia. I also have a B.S. in Human Resources from Bluefield College,
13 which is in Bluefield, Virginia. I have thirty-one years of experience in the coal
14 and gas field, the first nineteen of which was with Island Creek Coal Corporation
15 while working various labor and management positions, in the last four of which
16 I've worked in the engineering department. While in the engineering department
17 there, some of my duties were to assist in developing and implementing the
18 coalbed methane program that is producing today.

19 In 1993, I left Island Creek Coal Corporation and came to the
20 Department of Mines, Minerals and Energy in which the first four years I was a
21 roof and ventilation specialist for the Division of Mines. Some of my duties there
22 were...as an operator assistant, was to operators to review and make changes in
23 mine maps and mine plans that are required by state and federal regulations prior
24

1 to implementation. Since then, I've been a gas and oil inspector since '97. Some
2 of my duties include reviewing permits, plans, inspecting various phases of the
3 gas activities such as construction, drilling, hydraulic fracturing, pipeline
4 installation, production and also monitor the environmental standards of the well
5 for the life of the well.

6 I also hold various certifications through DMME. Some of them are
7 that I'm a certified underground mine foreman, I'm a certified electrician, I'm a
8 certified shot fireman and also I'm certified underground mineral mine foreman,
9 which is minerals other than coal.

10 BOB WILSON: And if you don't accept that, we'll go get another
11 one.

12 (Laughs.)

13 BOB WILSON: Go ahead.

14

15 RICK COOPER: On 2/17, Richard Bailey, Engineering firm who
16 represents Calico Mining where the H44A well is located submitted a map as
17 required by regulation that he's mining within 500 feet of well H44. When I was
18 reviewing this map on that particular day, I noticed that H44A, which was closer
19 than H44 was not shown on the map. I contacted Mr. Bailey that day and asked
20 him why H44A was not on the map and he was a little astonished, to be honest,
21 because he said he was not aware of it. His first comment was, "Did anything
22 happen when they drilled the well?" I said, "Well, the reason I was calling you. I
23 was sort of concerned about that myself." But he said that he was not aware of

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1 the well being drilled. I gave him the coordinates and he plotted it on the map and
2 he resubmitted the map. At that time, I contacted Mike Willis of the Division of
3 Mines, David Asbury of the Division of Mines and Bob Wilson and let them know
4 that I had found this well not being shown in the mine works. After a discussion, I
5 contacted Les Arrington on the 23rd and let him know the situation. But just to let
6 you know, this well was drilled October the 31st and November the 1st of '05. So,
7 it had been drilled three to four months prior to the submittal of this map. I notified
8 Les Arrington of the deficiency. The first comment to Les was he thought I meant
9 a two day notice. Of course, no, I called him back and I said, "No, I don't mean
10 that you did not give a two day notice. I'm saying that you drilled into an active
11 mine and we weren't aware of that and we're not given a safety plan to mine
12 through that mines and the mines was not notified." On the 10th of Nov...10th of
13 March, I cited a violation for failure to noti...failure to submit a safety plan in
14 this...when the well is drilled and we're where we're at today in regards to that.

15 BENNY WAMPLER: Mr. Swartz.

16 MARK SWARTZ: The statute that allows for a civil charge requires
17 that a civil charge be by consent. So, I just thought I would start by saying that,
18 you know, we've had discussion about this. We've had this letter for a while.
19 CNX consents to the civil charge as recommended. It's a serious matter. It...what
20 happened was we actually sent notice to this coal operator and they had changed
21 their address. The card came back and the people that received the mail back at
22 CNX dropped the ball and that's what happened. I mean, otherwise if they had
23 attended to that coming back and it was coming back from a coal company, you

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1 know, we would have done it again. You know, fortunately, this was drilled into an
2 inactive part of a mine. But, I mean, it could have been disaster, you know, and
3 we understand that.

4 What has been done, I think, you know, Mr. Wilson in his March the
5 20th letter, which I assume he's going to talk to you further about, but you'll notice
6 that he has got in here a...comments with regard to, you know, addressing the
7 problem for the future. Essentially, everyone who has any involvement in drilling
8 or permitting now has a map on their wall, you know, that has every active mine
9 area on it. It's not limited to people who, you know, we thought needed to know.
10 In addition, the mail room rule is if anything comes back from a coal company,
11 because the well is identified on the mailing, so if it comes back, all proceedings
12 on that particular well stop until that issue is resolved. So, I mean, that's...that's
13 what they've done to address this. If we had part two place, you know, when this
14 happened, this wouldn't have happened. But, you know, Les has with him today,
15 well, I'm not sure that we know the amount it's going to be, the 1500, but he has
16 brought with him a check made payable to Buchanan County, you know, because
17 that's who would receive the money and, you know, we'll mail that today if it turns
18 out to be that amount. But it's something that we consent to. It's very serious
19 and, you know, that's what my client has done to deal with the issue going
20 forward.

21 BENNY WAMPLER: Thank you.

22 BOB WILSON: Let me, Mr. Chairman, I'll briefly run through this
23 recommendation that we've put before the Board here. I would like to say for the
24

1 record too that Mr. Cooper's actions are to be very much commended in this
2 respect. The actual danger of drilling the well into an active mine was probably
3 minor relative to the fact that that portion of the mine was due for remaining at a
4 later time. If they had not know that well was there and mined into it at some later
5 date and allowed a flood of methane to come into the mine, that could have been
6 a major disaster. Rick is to be commended for his diligence in looking at these
7 things and making sure that they're done correctly. I just wanted to do that on the
8 record.

9 The recommendations that we have made, the first criteria for
10 establishing civil charge points is the seriousness. That's on table one in the Civil
11 Charge Procedural Rule that you have there. Under damage to public health and
12 safety, five to six points must be assigned if there is significant actual or potential
13 threat. We decided that there was a significant potential threat here. The well
14 was drilled into an active area of the mine. By our definition, an active area is one
15 that is ventilated and regularly visited. The mine workings at that particular time
16 were some 1400 feet away. So, there were no people in that area when the
17 well...when the mine was penetrated. But as I mentioned earlier, the problem or
18 major hazard associated with this was the fact that the pillars that were
19 surrounding where this well penetrated were due to be removed. A bit of
20 digression here, this was an old mine that has been abandoned and then
21 reactivated so they could go back in and do retreat mining and other operations
22 there to get coal that was left behind.

23 We recommended six points under our civil penalties rule there. We
24

1 did not find environmental, correlative rights or enforcement obstruction issues in
2 that. Under table two, we assigned three points for negligence based purely on
3 the definition that says, "Failure of an operator to prevent the occurrence due to
4 lack of diligence or lack of reasonable care." As I said earlier, we were under no
5 means insinuating that this operator was reckless in his approach to this sort of
6 thing. It was an unfortunate misalignment of things that caused this to happen.

7 Under good faith points, good faith points are generally given for a
8 rapid abatement of the violations. It's hard to abate a well that's already in the
9 ground with no plan. But we did give a good faith point because they have
10 instituted a policy of checks and double checks to make sure that there are a
11 number of people in the loop on this such that...such an occurrence does not
12 happen again.

13 That gave us a total of eight points under NOV 1654 and by the
14 table amount in here, that comes...that's where we got the \$1,500. There are no
15 previous violations on that permit. This operator has no history of violations of
16 this sort. So, we did not add anything there. Our recommendation was \$1,500.

17 To address something that Mr. Swartz said, the penalty cannot really
18 be paid until an order is issued. You'll get a copy of the order. The County will
19 get a copy of the order. At that time, you would send a check to them.

20 BENNY WAMPLER: You've heard the rationale for the charges and
21 you've also heard the operator consent to the rationale and the amount. Is there
22 any questions?

23 (No audible response.)

24

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1 BENNY WAMPLER: Is there a motion?

2 BILL HARRIS: Mr. Chairman, I move that we approve...I would
3 presume would be the correct language, approve the recommendation for civil
4 charges presented by Mr. Wilson.

5 PEGGY BARBAR: Second.

6 BENNY WAMPLER: Second. Any further discussion?
7 (No audible response.)

8 BENNY WAMPLER: All in favor, signify by saying yes.
9 (All members signify by saying yes.)

10 BENNY WAMPLER: Opposed, say no.
11 (No audible response.)

12 BENNY WAMPLER: You have approval. The next item on the
13 agenda...thank you, Rick. The next item on the agenda is a petition from CNX
14 Gas Company, LLC for pooling of coalbed methane unit V-8, which is docket
15 number VGOB-06-0418-1615. We'd ask the parties that wish to address the
16 Board in this matter to come forward at this time.

17 MARK SWARTZ: Mark Swartz and Les Arrington. It probably
18 makes sense to combine this with W-4 since it's essentially the same repooling
19 issue.

20 BENNY WAMPLER: Okay. We'll also call docket number VGOB-
21 06-0418---.

22 MARK SWARTZ: I'm sorry, I'm sorry.

23 BENNY WAMPLER: Don't do it?

24

1 (Laughs.)
2 MARK SWARTZ: Hold on here.
3 (Mark Swartz and Leslie K. Arrington confer.)
4 MARK SWARTZ: It's...it's the last two. I'm sorry. Let's do this one
5 by itself.
6 BENNY WAMPLER: Okay.
7 MARK SWARTZ: I misread my note.
8
9 LESLIE K. ARRINGTON
10 having been duly sworn, was examined and testified as follows:
11 DIRECT EXAMINATION
12 QUESTIONS BY MR. SWARTZ:
13 Q. Les, you've been sworn, right?
14 A. Uh-huh.
15 (Anita Duty passes out an exhibit.)
16 Q. Okay, Les, could you state your name for the record,
17 please?
18 A. Leslie K. Arrington.
19 Q. Who do you work for?
20 A. CNX Gas Company, LLC.
21 Q. What do you do for them?
22 A. I'm manager of environmental and permitting.
23 Q. With regard to the applications, the pooling applications
24

1 that are on the docket today, did you either personally prepare those and the
2 exhibits or have them prepared under your direction?

3 A. Yes, I did.

4 Q. And did you sign both the notices and the applications
5 including the one that we're dealing with V-8?

6 A. Yes.

7 Q. What did you do to tell people that we would be having a
8 hearing concerning CBM unit V-8 today?

9 A. We mailed by certified mail, return receipt requested on
10 March 17, 2006 and we published in the Bluefield Daily Telegraph on March the
11 31st, 2006.

12 Q. And when you published, what did you publish?

13 A. The notice of hearing and location map.

14 Q. And have you filed proofs of publication and certificates
15 with regard to mailing with Mr. Wilson?

16 A. Yes, we have.

17 Q. Okay. The V-8 unit, is that an Oakwood II unit?

18 A. Yes, it is.

19 Q. And it seeks to produce gas out of a longwall area?

20 A. Yes, it does.

21 Q. In what mine?

22 A. The VP8 mine.

23 Q. And what...what panel in that mine?

24

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1 A. Two South

2 Q. Okay. The applicant here is what company?

3 A. CNX Gas.

4 Q. And there's a request that someone be appointed the

5 Board's designated operator if there's an order entered and who is it that the

6 applicant is asking be appointed?

7 A. CNX Gas.

8 Q. Okay. Is CNX Gas Company a Virginia General

9 Partnership?

10 A. Yes, it is.

11 Q. Is it authorized to do business in the Commonwealth?

12 A. Yes, it is.

13 Q. As to the designated operator issue, has CNX registered

14 with the Department of Mines, Minerals and Energy?

15 A. Yes, it is.

16 Q. Does it have a blanket bond on file?

17 A. Yes.

18 Q. Okay. Have you listed all of the people... strike that. Let's

19 look at the list of respondents. You've got an Exhibit B-2 today in the packet of

20 revised exhibits that the Board was given.

21 A. Yes, we do.

22 Q. And in Exhibit B-2, have you listed some folks that can be

23 dismissed?

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1 A. Yes, we have.

2 Q. Okay. And in the far right hand column have you listed the
3 reason why they can be dismissed?

4 A. Yes, we have.

5 Q. And what's the reason?

6 A. They were leased.

7 Q. Okay. And have you also submitted today a revised
8 Exhibit B-3, which extracts the people that you've leased in the interim and leaves
9 as remaining only the people that have not as yet been leased?

10 A. Yes, we have.

11 Q. Okay. So, they should...the Board in pooling this, if it's
12 pooled, should use the revised Exhibit B-3 in the packet that they received today,
13 which is dated...revision date of April the 17th of 2006, correct?

14 A. Yes, they should...yes.

15 Q. Okay. And are you requesting that the Board order then
16 dismiss all of the folks listed in B-2?

17 A. Yes, we are.

18 Q. Do you want to add anybody today?

19 A. No.

20 Q. Obviously, when you lease people that requires...that
21 would dictate that the percentage of pooling is probably going to go down?

22 A. Yes.

23 Q. Okay. If you would look at the revised Exhibit A, page two,
24

1 which is the last page of the revised exhibits. What are you seeking to pool?

2 A. We have leased 99.5745% of the coal, owner's claim to
3 coalbed methane, and 99.7725% of the oil and gas owner's claim to coalbed
4 methane. We're seeking to pool 0.4255% of the coal owner's claim to coalbed
5 methane and 0.2275% of the oil and gas owner's claim to coalbed methane.

6 Q. And those percentages are down respectively from roughly
7 4% and 10% that you were seeking to pool when you filed?

8 A. Yes.

9 Q. There was some address unknown issues when you
10 originally filed. Is that still the case?

11 A. No.

12 Q. So, there's no need for escrow because of unknown
13 addresses, correct?

14 A. No.

15 Q. Okay. Is there still an escrow requirement, which is
16 reflected by Exhibit E, with regard to Tracts 1 and 2 though for traditional
17 conflicts?

18 A. Yes.

19 Q. Or which tracts would it be?

20 A. Tract 1 and 3. Yes, Tract 1 and 3.

21 Q. 1 and 3, okay. And that would be traditional conflicts?

22 A. Yes.

23 Q. Okay. I know there are split agreements with regard to this
24

1 unit.

2 A. Yes, there are.

3 Q. Okay. And are those reflected in Exhibit EE?

4 A. Yes, they are.

5 Q. Okay. And are you requesting that in the event the Board

6 should pool this unit, that it allow the operator in its order to pay the folks listed in

7 Exhibit EE directly in accordance to with their split agreements as opposed to

8 escrowing those funds?

9 A. Yes, it would. Yes.

10 Q. There is an allocation of costs here, right?

11 A. Yes.

12 Q. And the exhibit that you used to do that is toward the end

13 of the original filing---?

14 A. Yes, it is.

15 Q. ---just in front of the proposed order, correct?

16 A. Yes.

17 Q. And go over with the Board how you've...how you've

18 allocated costs to this unit...this V-8 unit?

19 A. Yes. This longwall panel consisted of six gob wells. Total

20 costs for this panel would be \$863,484.52. The allocated portion to the V-8 unit

21 would be 10.4410% or \$90,156.42.

22 Q. Okay. So, that would be the starting point number if

23 people wanted to participate or if people were carried?

24

1 A. That's correct.

2 Q. Okay. And essentially this longwall panel affects the four

3 units that you've listed here?

4 A. Three. Three units.

5 Q. I'm sorry, three units that you've listed here and you've set

6 forth the V-8 at the last number?

7 A. Yes, sir.

8 Q. Okay. And this...these units were affected by prior Board

9 orders, correct?

10 A. I'm not...V-8...I'll have to look back through the application.

11 Q. Okay. I think, for example, if you look at legal authority,

12 paragraph---?

13 A. Yes.

14 Q. ---four of the notice, we've got a couple of Board orders

15 from '91, '92 and '93?

16 A. Yes.

17 Q. Okay. And you've identified those for the Board?

18 A. Yes, that's...that's correct on that.

19 Q. Okay. And then also in your application and exhibits, I

20 believe you've listed the permit numbers for the wells.

21 A. Yes.

22 Q. And you've provided costs with regard to each of those

23 wells, which you've then captured in Exhibit G, page one when you've totaled

24

1 those six wells?

2 A. We did capture the costs, yes.

3 Q. Okay. All right. What are the lease terms that you have
4 offered to folks that you've been able to acquire leases from?

5 A. Our standard coalbed methane lease is a \$1 per acre per
6 year with a five year paid up term and a one-eighth production royalty.

7 Q. Okay. And in the event the Board were to enter an order
8 pooling this unit, would it be your recommendation that they use those terms?

9 A. Yes.

10 Q. Okay. Is it your opinion that the proposed development of
11 coalbed methane, from what is now essentially becoming a longwall gob unit, is a
12 reasonable way to produce gas from this unit?

13 A. Yes, it would be.

14 Q. And you're seeking an order out of the Oakwood II Field
15 Rules here?

16 A. Yes, we are.

17 Q. Okay. And this is an 80 acre unit?

18 A. Yes, it is.

19 Q. Okay. And if you combine a pooling order with the leasing
20 efforts that the applicant has succeeded in leasing, would the correlative rights of
21 all of the owners and claimants be protected?

22 A. Yes, it would.

23 MARK SWARTZ: That's all I have, Mr. Chairman.

24

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1 BENNY WAMPLER: Questions from members of the Board?
2 (No audible response.)
3 BENNY WAMPLER: Do I have a motion?
4 DONALD RATLIFF: I move to approve, Mr. Chairman.
5 PEGGY BARBAR: I second.
6 BENNY WAMPLER: Any further discussion?
7 (No audible response.)
8 BENNY WAMPLER: All in favor, signify by saying yes.
9 (All members signify by saying yes.)
10 BENNY WAMPLER: Opposed, say no.
11 (No audible response.)
12 BENNY WAMPLER: You have approval. The next item on the
13 agenda is a petition from CNX Gas Company, LLC for pooling of coalbed methane
14 unit W-4. This is docket number VGOB-06-0418-1616. We'd ask the parties that
15 wish to address the Board in this matter to come forward at this time.
16 MARK SWARTZ: Mark Swartz and Les Arrington. We also have
17 some revised exhibits with regard to this application. Mr. Chairman, while we're
18 passing those out, if you could...if I could, I'd like to incorporate Mr. Arrington's
19 testimony from the prior hearing regarding the applicant and operator, the
20 standard lease terms and his employment.
21 BENNY WAMPLER: That will be incorporated.
22 (Anita Duty passes out revised exhibits.)
23
24
~ ~

1 LESLIE K. ARRINGTON

2 DIRECT EXAMINATION

3 QUESTIONS BY MR. SWARTZ:

4 Q. In this unit, Mr. Arrington...well, state your name for us?

5 A. Leslie K. Arrington.

6 Q. Okay. In this unit, who is the...or this pooling application,
7 who is the applicant?

8 A. CNX Gas Company, LLC.

9 Q. Okay. And who is it that is requested be appointed the
10 designed operator if the order...if an order is entered?

11 A. CNX Gas Company, LLC.

12 Q. Okay. What did you do to notify the respondents that you
13 have listed in your notice of hearing and Exhibit B-3 that there would be a hearing
14 today?

15 A. We mailed on March 17, 2006 by certified mail, return
16 receipt requested. We published in the Bluefield Daily Telegraph on March the
17 31st, 2006.

18 Q. Did you...have you filed proofs of publication and
19 certificates with regard to mailing with Mr. Wilson?

20 A. Yes, we have.

21 Q. Okay. It looks like we again have an Exhibit B-2 with
22 regard to this unit?

23 A. Yes.

24

--

1 Q. And that's in the revised exhibits?

2 A. Yes, it is.

3 Q. And in Exhibit B-2, have you listed respondents that were

4 originally noticed that can be dismissed?

5 A. Yes.

6 Q. And what's the reason?

7 A. They were leased.

8 Q. Okay. And are you requesting that in the event the Board

9 pools this unit that they dismiss as respondents the folks identified as having

10 been leased subsequent to the original filing of the application in Exhibit B-2?

11 A. Yes, we are.

12 Q. Have you also filed an amended or revised Exhibit B-3?

13 A. Yes, we have.

14 Q. And would that reflect, after subtracting the people that

15 you've leased in B-2, the folks that you're actually seeking to pool today?

16 A. Yes, it does.

17 Q. Okay. And the revision date of the B-3 that's relevant now

18 is April the 17th of '06, correct?

19 A. Yes, correct.

20 Q. Okay. After the leasing that you've accomplished or taking

21 into consideration the leasing that you've accomplished since you filed this

22 original application, what's your status now in terms of what you've been able to

23 acquire and what you're seeking to pool today?

24

1 A. We've leased 96.7962% of the coal owner's claim to
2 coalbed methane and 91.3684% of the oil and gas owner's claim to coalbed
3 methane. We're seeking to pool 3.2038% of the coal owner's claim to coalbed
4 methane and 8.6316% of the oil and gas owner's claim to coalbed methane.

5 Q. Is there a well permit with regard to this well?

6 A. Yes. It's permit number 7121 to a...drilled to a depth of
7 2347 feet at a cost of \$254,863.45.

8 Q. Okay. And you're indicating that yes it has been drilled?

9 A. Yes.

10 Q. Now, this is an Oakwood I unit.

11 A. Yes, it is.

12 Q. So, that would contemplate one frac well in this unit?

13 A. Yes.

14 Q. And how many acres?

15 A. 80.

16 Q. And is the frac well that has been drilled in the window?

17 A. Yes, it is.

18 Q. Okay. You also have a revised Exhibit E in the revised
19 packet of exhibits, correct?

20 A. Yes.

21 Q. Okay. And in Exhibit E, have you listed the tracts and folks
22 that would require escrow?

23 A. Yes.

24

--

1 Q. Okay. And there is, obviously, some conflicts that would
2 require escrow?
3 A. Yes, correct.
4 Q. And there are also some unknown addresses?
5 A. Correct, for Tract Number 2. For Tract 2.
6 Q. And that, indeed, is the only tract that requires escrow for
7 any reason?
8 A. Yes.
9 Q. Do you want to add anyone as a respondent today?
10 A. No.
11 Q. Is it your opinion that the plan to drill one frac well in the
12 drilling window of this unit is a reasonable plan to develop the coalbed methane
13 gas under the Oakwood rules from this unit?
14 A. Yes, it is.
15 Q. Is it your opinion that if you combine the leasing activities
16 and efforts that you've succeeded in with a pooling order that those two things
17 taken together would protect the correlative rights of all owners and claimants?
18 A. Yes, it would.
19 MARK SWARTZ: That's all I have.
20 BENNY WAMPLER: Questions from members of the Board?
21 BILL HARRIS: Mr. Chairman.
22 BENNY WAMPLER: Mr. Harris.
23 BILL HARRIS: Just a quick question about the location of the well.
24

1 The plat that you have in the original application shows it at the lower left. I was
2 just curious about the placement of that.

3 LESLIE K. ARRINGTON: Okay. The reason is down in the lower
4 left, that's a strip bench going around there and it's about as far as the strip bench
5 goes is the reason it's there.

6 BENNY WAMPLER: So, the access to the other access to...to put it
7 more central, I guess, is what he's getting at.

8 BILL HARRIS: Further lower north of---.

9 LESLIE K. ARRINGTON: Yes, yes. It's the access getting to an
10 existing bench.

11 BILL HARRIS: Thank you.

12 BENNY WAMPLER: Other questions from members of the Board?

13 (No audible response.)

14 BENNY WAMPLER: Do you have anything further, Mr. Swartz?

15 MARK SWARTZ: No.

16 BENNY WAMPLER: Is there a motion?

17 MARY QUILLEN: Motion to approve.

18 PEGGY BARBAR: I'll second.

19 BENNY WAMPLER: Motion and second. Any further discussion?

20 (No audible response.)

21 BENNY WAMPLER: All in favor, signify by saying yes.

22 (All members signify by saying yes.)

23 BENNY WAMPLER: Opposed, say no.

24

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1 (No audible response.)

2 BENNY WAMPLER: You have approval. Next is a petition from
3 CNX Gas Company, LLC for a repooling of coalbed methane unit EE-13, docket
4 number VGOB-04-0921-1333-01. We'd ask the parties that wish to address the
5 Board in this matter to come forward at this time.

6 MARK SWARTZ: Mark Swartz and Les Arrington. This is actually
7 the same repooling issue that would be presented by the next one as well.

8 BENNY WAMPLER: State your name.

9 JOHN TOLMAN SHEFFIELD: John Sheffield.

10 BENNY WAMPLER: Do you want to combine thirteen as well for
11 here?

12 MARK SWARTZ: Yes.

13 BENNY WAMPLER: I misunderstood earlier when you
14 said---

15 MARK SWARTZ: Right. It's the same issue.

16 BENNY WAMPLER: Also, a petition from CNX Gas Company, LLC
17 for repooling of coalbed methane unit EE-14, docket number VGOB-04-0921-
18 1334-01. We'd ask...also ask the parties that wish to address the Board in this
19 matter to come forward.

20 MARK SWARTZ: Mark Swartz and Les Arrington.

21 JOHN TOLMAN SHEFFIELD: John Sheffield.

22 BENNY WAMPLER: You may proceed.

23 MARK SWARTZ: I'd like to incorporate Mr. Arrington's
24
25

1 test...previous testimony with regard to the applicant and operator, standard lease
2 terms and his employment, if I could.

3 BENNY WAMPLER: That will be incorporated.

4

5 LESLIE K. ARRINGTON

6 DIRECT EXAMINATION

7 QUESTIONS BY MR. SWARTZ:

8 Q. Les, you need to state your name for us.

9 A. Leslie K. Arrington.

10 Q. These are both repooling applications?

11 A. Yes, it is.

12 Q. Why is repooling necessary?

13 A. When pooled...pooled it originally, you'll see in the
14 application, there's B. F. and Annie McGlothlin Heirs, which owns a one-half
15 interest in the tracts that they're in. When we done the one-half and the first half,
16 we omitted putting in the B. F. and Annie McGlothlin Heirs to pool them.

17 Q. Okay. So, essentially you pooled the Oryn Treadway Trust
18 and the John Tolman Sheffield Trust and omitted the McGlothlin's Heirs, is that
19 what you're saying or was it---?

20 A. We did omit...we did omit the McGlothlin Heirs the first
21 time.

22 Q. Okay. So, basically...well, can you tell me whether or not
23 any of the percentages for the other folks that were pooled in this unit...these two

24

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1 units originally have changed?

2 A. No, they have not.

3 Q. Okay. And is that the reason for Exhibit D where you've

4 listed folks that already had a chance to elect and are suggesting that they don't

5 need an additional election because their percentage hasn't changed?

6 A. That's correct.

7 Q. Okay. And there's an Exhibit D to both of these units?

8 A. Yes.

9 Q. Okay. Obviously, the new folks would have an election

10 option?

11 A. That's correct.

12 Q. Okay. Is the same repooling issue present in both of these

13 applications?

14 A. Yes, it is.

15 Q. And in the first one, EE-113, we're talking about Tract 4,

16 correct?

17 A. EE-13, I believe that's correct. Yes, Tract 4.

18 Q. Okay. And in EE-14, the same people but they appear in

19 Tract 3?

20 A. Yes.

21 Q. Okay. What did you do to provide notice to the

22 respondents that we were having a hearing today?

23 A. We mailed by certified mail, return receipt requested on

24

1 March 17, 2006. We published in the Bluefield Daily Telegraph on March the
2 30th, 2006.

3 Q. And when you published, what did you publish?

4 A. The notice of hearing and the location map.

5 Q. Okay. Have you filed proofs of publication and certificates
6 with regard to mailing with Mr. Wilson?

7 A. Yes, we have.

8 Q. Okay. Take both of the units, why don't you start with EE-
9 14, and tell the Board what you've been able to acquire...what interest you've
10 been able to acquire and what it is you're seeking to pool today starting with 13
11 and then move onto 14.

12 A. Yes. On EE-13, we have leased 88.375% of the coal
13 owner's claim to coalbed methane and 88.375% of the oil and gas owner's claim
14 to coalbed methane. We're seeking to pool 11.625% of the coal, oil and gas
15 owner's claim to coalbed methane in EE-13. In EE-14, we have leased 95.1625%
16 of the coal, oil and gas owner's claim to coalbed methane. We're seeking to pool
17 4.8375% of the coal owner...coal, oil and gas owner's claim to coalbed methane.

18 Q. And with regard to EE-14, do you have a permit?

19 A. EE-14?

20 Q. Yes.

21 A. Yes. 6375 to a depth of 2521 at a cost of \$228,682.57.

22 For EE-13, the permit number is 6374 to a depth of 2,613 feet and the cost is
23 \$230,376.87.

24

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1 Q. Looking at EE-13, are there any escrow requirements?

2 A. Yes, for Tract 4.

3 Q. Okay. And is that just a conflicts issue?

4 A. And unknowns.

5 Q. And there is unknowns in Tract 4 as well?

6 A. Yes.

7 Q. Okay. Turning to escrow with regard to EE-14, do we have

8 the same escrow requirements, but this time it's Tract 3?

9 A. Yes, we do.

10 Q. Both conflicts and an unknown address?

11 A. Yes.

12 Q. Is it your opinion that the...strike that. Both of these units

13 are Oakwood I units?

14 A. Yes, they are.

15 Q. Both 80 acres?

16 A. Yes.

17 Q. And both of them have one well in a drilling window?

18 A. Yes, they do.

19 Q. Is it your opinion that drilling one frac well in a drilling

20 window of these two Oakwood 80 acre units is a reasonable way to produce the

21 coalbed methane from those units?

22 A. Yes, it is.

23 Q. And is it your opinion, that if you take...now that we've

24

1 Tract 3 and 4 straightened, if you combine that with the leasing activities, is it your
2 opinion that you have indeed accounted for everyone who had...either has an
3 ownership claim or an ownership interest?

4 A. Yes, we do.

5 MARK SWARTZ: That's all I have.

6 BENNY WAMPLER: Mr. Sheffield.

7 JOHN TOLMAN SHEFFIELD: Yes, Mr. Chairman, I'd like to ask a
8 few questions if I may about this.

9 BOB WILSON: You'll need to swear---.

10 (John Tolman Sheffield is duly sworn.)

11 BENNY WAMPLER: Go ahead.

12 JOHN TOLMAN SHEFFIELD: I kind of have a question first about,
13 Mr. Swartz and Mr. Arrington, on page Exhibit B of 01...of 04-0921-1334. You
14 have my ownership. If you're there, it's page one of two. I guess, I'm getting a
15 little confused on this.

16 MARY QUILLEN: Is that in 13?

17 JOHN TOLMAN SHEFFIELD: That's E-14, I apologize.

18 MARY QUILLEN: E-14.

19 JOHN TOLMAN SHEFFIELD: It seems I see...and maybe you can
20 help me out with this, guys. It seems I see a property change where you had me
21 with all of the acreage...you had me with 50% here in the new petition. In the old
22 petition, I'm showing, maybe you can correct me, I hope you can, 7.74 acres and
23 then in the new petition you changed it to 3.87 acres. Here's my old petition here.

24

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1 If you would just kind of look at that. Is that...can you help me out with that?

2 MARK SWARTZ: Well, that would be the math.

3 JOHN TOLMAN SHEFFIELD: Here you go.

4 LESLIE K. ARRINGTON: Let Anita see it.

5 JOHN TOLMAN SHEFFIELD: That's the old petition. Go ahead

6 and go through that.

7 MARK SWARTZ: He has got it now.

8 JOHN TOLMAN SHEFFIELD: Okay. Because, I believe, it was the

9 testimony that there was no change in the people that you had force pooled or

10 escrowed.

11 LESLIE K. ARRINGTON: It appears that Mr. Sheffield is correct.

12 JOHN TOLMAN SHEFFIELD: Okay. At this time, I'd like to

13 implement and go before the Board and say that he did change my ownership

14 from previously. I can submit documentation where I tried to have an election.

15 Unfortunately on our part, and I say my brother and mine's part, our Trustee did

16 not...has not understood for many years oil and gas and that doesn't...Mr.

17 Arrington did what he was suppose to do. He mailed out the elections to him. I

18 did not receive them until March. He mailed them out January the 31st. There's a

19 30 day period. Now, I sent him documentation on February the 2nd and received

20 by them by certified mail February the 7th of the change of the address when we

21 no longer had that Trustee. It was during that 30 day period. I contacted him on

22 about the 18th of March on the phone within a couple of days of getting it. I wrote

23 him a letter. You know, I understand, he said, "Well, you know, I'm sorry, the

24

1 election time has already gone." But now he's repooling me and he's changing
2 the original application. I feel I'm going to have to enforce my statutory rights to
3 ask for an election in this now.

4 That's what I come before the Board on EE-13 and EE-14. I wish to
5 have my elections afforded to me because if you're to read the new petition that's
6 before the Board today, it looks as if I was leased along unless you have that
7 information, and I do have the letters. I'm sorry, I have them back behind here.

8 BENNY WAMPLER: Well, they're not contesting it so far.

9 JOHN TOLMAN SHEFFIELD: Yes. I just wanted to put it out on the
10 table. Thank you, sir.

11 MARK SWARTZ: I'm waiting for him to finish.

12 JOHN TOLMAN SHEFFIELD: I'm...I'm done.

13 MARK SWARTZ: His percentage changed, he has got an option.

14 JOHN TOLMAN SHEFFIELD: Okay. And---.

15 MARK SWARTZ: I mean, Les testified it went down by half and,
16 obviously, (inaudible). You know, you shouldn't have been on Exhibit D is what
17 I'm saying. He testified the change was---.

18 JOHN TOLMAN SHEFFIELD: And there has been some...and there
19 has been some ongoing discussion on it in the repooling and so I think that---.

20 MARK SWARTZ: He was included in Exhibit D by mistake.

21 JOHN TOLMAN SHEFFIELD: I do have another question. As to
22 the...let me see where I have this highlighted. Under the new petition of EE-14,
23 page one of eight, just question, you have the coal fee ownership and it says that
24

1 only CBM ownership in conflict is the P3 Seam. The entire one-half interest will
2 be escrowed. I didn't know I had...I didn't know what my conflict was in that. Les,
3 if you could help me out with that because I'm pretty ignorant sometimes when it
4 comes to this and you know that.

5 LESLIE K. ARRINGTON: There does...there does appear to be
6 some P3 seam ownership change...differences.

7 JOHN TOLMAN SHEFFIELD: Okay. But is that our 50% of that?
8 Are we...are we in there or...I notice back here when you show the McGlothlin
9 Heirs that somebody else owns that but not my part.

10 LESLIE K. ARRINGTON: Right. Well, if you'll notice in the exhibit,
11 if you'll look at your name where it shows coal ownership, you'll notice that there's
12 nothing there. That it says anything about the 3 seam on your behalf. So, that's
13 50% there.

14 JOHN TOLMAN SHEFFIELD: The other 50%.

15 LESLIE K. ARRINGTON: Then the other 50%---.

16 JOHN TOLMAN SHEFFIELD: Has a problem with the P3 seam?

17 LESLIE K. ARRINGTON: It should be listed here.

18 (Mark Swartz and Leslie K. Arrington confer.)

19 LESLIE K. ARRINGTON: It's Exhibit B-3. That's right. Island Creek
20 has the other 50%. I was looking for it, I'm sorry.

21 MARK SWARTZ: Do you understand what he's telling you?

22 LESLIE K. ARRINGTON: Yeah, Island Creek---.

23 JOHN TOLMAN SHEFFIELD: I hope so. Island Creek has the
24

1 McGlothlin...the other 50%---.

2 LESLIE K. ARRINGTON: That's correct.

3 JOHN TOLMAN SHEFFIELD: ---and not 3.

4 LESLIE K. ARRINGTON: And you've got P3.

5 JOHN TOLMAN SHEFFIELD: Right. But I've got my P3 here even

6 though I'm under this, okay.

7 MARK SWARTZ: And this is a list of who we're pooling and we're

8 not pooling Island Creek, so that's why they wouldn't be in here.

9 JOHN TOLMAN SHEFFIELD: Okay. I was just checking to make

10 sure. Thank you very much.

11 BENNY WAMPLER: And you understand that your right to make an

12 election is not in dispute here?

13 JOHN TOLMAN SHEFFIELD: Yes, I understand that. Okay, great.

14 I appreciate it. Thank you very much.

15 BENNY WAMPLER: Do you have anything further?

16 MARK SWARTZ: Nope.

17 BOB WILSON: Mr. Chairman.

18 BENNY WAMPLER: Mr. Wilson.

19 BOB WILSON: For the sake of assessing the order when it comes

20 in, did...was it just determined that the Sheffield Trusts would not be escrowed,

21 subject to escrow? The Exhibit E shows the Sheffield Trust having the same

22 ownership in the coal as it does in the oil and gas, which generally says there's no

23 conflict there. Is that...is he on Exhibit E properly or not?

24

1 JOHN TOLMAN SHEFFIELD: Oh, okay.

2 MARK SWARTZ: Well, the only problem is that to the extent that

3 somebody else has a half interest, the coal owner has the P3...well, he has got

4 both though.

5 LESLIE K. ARRINGTON: Yeah, he has owns it fee.

6 JOHN TOLMAN SHEFFIELD: Yeah, I've got fee.

7 MARK SWARTZ: Okay.

8 LESLIE K. ARRINGTON: Okay.

9 MARK SWARTZ: I don't think that's a problem. I think you're right.

10 BOB WILSON: So, he should not be escrowed then, is that---?

11 JOHN TOLMAN SHEFFIELD: No escrow?

12 LESLIE K. ARRINGTON: I believe that's correct.

13 BOB WILSON: Okay.

14 SHARON PIGEON: So, we need a new E?

15 LESLIE K. ARRINGTON: Yes.

16 SHARON PIGEON: Is that on only the one, EE-14?

17 JOHN TOLMAN SHEFFIELD: I believe that would...that would stand

18 true for EE-13 also.

19 MARY QUILLEN: For both of them.

20 MARK SWARTZ: It would be true for both.

21 JOHN TOLMAN SHEFFIELD: True for both as the situation is

22 going.

23 MARY QUILLEN: So, these would be deleted from the escrow,

24

1 correct?

2 LESLIE K. ARRINGTON: His portion.

3 MARK SWARTZ: His portion.

4 JOHN TOLMAN SHEFFIELD: My portion, yes.

5 MARK SWARTZ: His portion.

6 MARY QUILLEN: Right. Uh-huh.

7 JOHN TOLMAN SHEFFIELD: Yes, ma'am.

8 BENNY WAMPLER: And they'll file a new E---.

9 MARK SWARTZ: Right.

10 BENNY WAMPLER: ---reflecting that. Anything further?

11 (No audible response.)

12 BENNY WAMPLER: Is there a motion?

13 BILL HARRIS: Mr. Chairman, I move for approval as amended.

14 PEGGY BARBAR: I'll second.

15 BENNY WAMPLER: Second. Any further discussion?

16 (No audible response.)

17 BENNY WAMPLER: All in favor, signify by saying yes.

18 (All members signify by saying yes.)

19 BENNY WAMPLER: All opposed, say no.

20 (No audible response.)

21 BENNY WAMPLER: You have approval. Thank you.

22 JOHN TOLMAN SHEFFIELD: Thank you.

23 BENNY WAMPLER: We're going to take a five minute break.

24

1 (Break.)

2 BENNY WAMPLER: The next item on the agenda is a petition from
3 CNX Gas Company, LLC for disbursement of funds from escrow and authorization
4 for direct payment of royalties on Tract 2 and 3, unit S-35, docket number VGOB-
5 98-0915-0681-02. We'd ask the parties that wish to address the Board in this
6 matter to come forward at this time.

7 MARK SWARTZ: Mark Swartz and Anita Duty.

8 BENNY WAMPLER: The record will show no others. You may
9 proceed.

10 MARK SWARTZ: You need to swear that girl.

11 (Anita Duty is sworn.)

12

13 ANITA DUTY

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. SWARTZ:

16 Q. Anita, you need to state your name for us.

17 A. Anita Duty.

18 Q. Who do you work for?

19 A. CNX Gas Company.

20 Q. Among your duties that you have for CNX, tell us about the
21 ones that pertain to why we're here today on this S-35 unit.

22 A. I'm responsible for making sure that the payments are
23 made to the escrow account.

24

--

1 Q. Okay. And what did you do with regard to this unit to
2 confirm payments and amounts?

3 A. I compared the check amounts that we had sent to escrow
4 with the bank's records and they all matched.

5 BENNY WAMPLER: Mark, let me go ahead and let these other folks
6 introduce themselves---

7 MARK SWARTZ: Okay.

8 BENNY WAMPLER: ---because they weren't coming down at the
9 time. State your name just loud and clearly.

10 BRENDA JUSTUS: I'm Brenda Justus.

11 PATSY MOORE: I'm Patsy Moore.

12 RONNIE OSBORNE: I'm Ronnie Osborne.

13 KENNETH OSBORNE: I'm Kenneth Osborne.

14 SHIRLEY KEENE: I'm Shirley Keene.

15 THELMA OSBORNE: I'm Thelma Osborne.

16 MARTHA WILLIAMS: Martha Williams.

17 COURT REPORTER: You all have to come down here to talk.

18 BENNY WAMPLER: See, she can't pick it up from up there and we
19 need it on the record.

20 COURT REPORTER: You need to all restate your names, please.

21 BRENDA JUSTUS: I'm Brenda Justus.

22 PATSY MOORE: Patsy Moore.

23 RONNIE OSBORNE: Ronnie Osborne.

24

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1 THELMA OSBORNE: Thelma Osborne.
2 SHIRLEY KEENE: Shirley Keene.
3 KENNETH OSBORNE: Kenneth Osborne.
4 MARTHA WILLIAMS: Martha Williams.
5 BENNY WAMPLER: Okay. You may continue, Mr. Swartz.
6 SARA DAY: Sara Day.
7 BILL HARRIS: There's one other.
8 BENNY WAMPLER: I'm sorry.
9 SARA DAY: Sara Day.
10 BENNY WAMPLER: I'm sorry. I didn't mean to leave you out.
11 SHIRLEY KEENE: And you've got a Tony Stilwell.
12 SARA DAY: He's here on behalf of Nancy Stilwell.
13 Q. What tract or tracts are we talking about?
14 A. Tract 2 and 3.
15 Q. And are you talking about disbursing all of the money that's
16 held with regard to those two tracts or just some of it?
17 A. Just some of it.
18 Q. Okay. And the reason for disbursements is what?
19 A. There are royalty split agreements signed.
20 Q. Okay. Did you bring one of the royalty split agreements
21 with you this morning?
22 A. Yes.
23 Q. Okay. And have you looked at all of them?
24

1 A. Yes.

2 Q. Are they all the same?

3 A. Yes.

4 Q. Okay. So, we could assume then that the language, which
5 we're going to be talking about in this split agreement, would apply to everybody?

6 A. Yes.

7 Q. Okay. Could you read loudly, if you can, the one
8 paragraph that starts...actually, the first sentence of the paragraph that starts at
9 the bottom of the first page, "Now, therefore..."?

10 A. "For and in consideration of the mutual benefits derived
11 from the parties hereto. The parties hereto hereby agree that as to any royalties
12 payable for the production of coalbed methane produced from the lands wherein
13 the party of the first part owns the coal and the party of the second part owns the
14 gas, such royalties will be paid 50% to the party of the first part and 50% to the
15 party of the second part."

16 Q. Okay. Is the party of the first part always the same in
17 these agreements?

18 A. Yes.

19 Q. And who is the party of the first part?

20 A. It's David Perry, Charles Greene, Gillespie... it's actually
21 the Hurt-McGuire Land Trust Agents.

22 Q. Okay. And that part of the first part is the coal party?

23 A. Yes.

24

1 Q. And the folks that have introduced themselves, some of
2 them are the gas parties, the second part?

3 A. Yes.

4 Q. Okay. Is the agreement a 50/50 agreement?

5 A. Yes.

6 Q. And is that how you have prepared your numbers?

7 A. Yes.

8 Q. Okay. With regard to these two tracts, 2 and 3, in S-35
9 when you compared your royalty payment information with the bank's information,
10 would you tell the Board whether or not you were able to make those accounts
11 agree or whether there was not an agreement?

12 A. They agreed.

13 Q. Okay. How much in dollar...well, strike that. Is your
14 accounting done as of a date?

15 A. Yes.

16 Q. What date?

17 A. February the 28th, 2006.

18 Q. Okay. Is that because the money is always a little behind?

19 A. Yes.

20 Q. Okay. The order that you're asking the Board to enter
21 today, would that apply on a percentage basis or a dollar basis?

22 A. Percentage.

23 Q. And that's because the dollars might change before the
24

1 disbursement is made?

2 A. Yes.

3 Q. So, although we're going to be talking some dollars

4 today...dollars and cents, really the Board order needs to reflect percentages

5 going forward?

6 A. Yes.

7 Q. And in addition to disbursing moneys from escrow, are you

8 asking that the operator be allowed to pay the folks who have split agreement

9 directly on a 50/50 basis instead escrowing their money?

10 A. Yes.

11 Q. Okay. Have you been in contact from time to time with the

12 Hurt-McGuire Land Trust over this matter...you or your company?

13 A. Yes.

14 Q. And is it their preference that there be disbursements?

15 A. Yes.

16 Q. Okay. And you know that because someone in your

17 company has spoken to them about it?

18 A. Yes.

19 Q. Okay. With regard to Tract 2, tell us what it is you're

20 proposing to disburse?

21 A. All of the percentages?

22 Q. Well, the percentages and the people? I mean, they've got

23 a chart, obviously, that you can refer to.

24

1 A. On Tract 2, it's the Hurt-McGuire Land Trust and part of
2 the Thomas Stilwell Heirs and not all of them.

3 Q. Is that because not all of them have signed split
4 agreements?

5 A. Right.

6 Q. Okay. And have you listed all of the folks that you have
7 copies of a 50/50 split agreements from?

8 A. Yes.

9 Q. Okay. And opposite their names, have you identified their
10 fractional interests?

11 A. Yes.

12 Q. And then have you converted that to a percentage of
13 escrow?

14 A. Yes.

15 Q. Okay. And just to give the Board an example or two, with
16 regard to Beula V. Osborne, what is it that you are proposing that should be
17 disbursed from escrow with regard to Tract 2 in S-35?

18 A. 5.3309% of escrow.

19 Q. Okay. And let's pick somebody further down here, how
20 about Connie Stilwell (J)?

21 A. 0.5923%.

22 Q. Okay. So, opposite everybody's name in Tract 2, you've
23 set forth a percentage that should be used by the escrow agent to make the
24

1 disbursement?

2 A. Yes.

3 Q. Okay. And with regard to Tract 3, have you done the same
4 thing?

5 A. Yes.

6 Q. Okay. And so in essence, you're requesting the Board to
7 enter an order authorizing the escrow agent to disburse using these percentages-
8 --?

9 A. Yes.

10 Q. ---and authorizing the operator to pay directly in the future?

11 A. Yes.

12 MARK SWARTZ: That's all I have.

13 BENNY WAMPLER: Questions from...one at a time and you have to
14 state your name too.

15 BRENDA JUSTUS: I'm Brenda Justus. The contract that we
16 signed, we went to Bob Wilson's office and they told us that it was for the O. H.
17 Keene Heirs only because we made that clear before we even signed anything or
18 mailed anything in. We did sign an agreement for the O. H. Keene Heirs, but not
19 the Linkous Horn Heirs. 15 acres is all the contract that we had.

20 BENNY WAMPLER: And it was for this unit?

21 BRENDA JUSTUS: No.

22 BENNY WAMPLER: Okay.

23 PATSY MOORE: How...we don't know about the---.

24

--

1 BENNY WAMPLER: See we're going by this unit.
2 So---.
3 PATSY MOORE: We've not signed no contract---.
4 BRENDA JUSTUS: We've not signed any contract---.
5 PATSY MOORE: ---except for the---.
6 BRENDA JUSTUS: ---for the Linkous Horn Heirs.
7 RONNIE OSBORNE: They're...I'm Ronnie Osborne. They're
8 petitioning to...the same contract we signed for the O. H. Keene, which my name
9 was suppose to have been took off, I asked the Board here that day, but now
10 they're bringing me with the same contract over on the Horn Heirs too on all three
11 wells here, it looks to me like.
12 BRENDA JUSTUS: And I'm Brenda Justus. We went to Greg
13 Bowman, to their office, he says, "O. H. Keene Heirs only" because we knowed
14 better than signing anything else. We did go to his office and he fixed that it was
15 O. H. Keene only...his office, Diane.
16 PATSY MOORE: Diane...Diane Davis.
17 BRENDA JUSTUS: They assured us that it had nothing to do with
18 the Horn Heirs.
19 BOB WILSON: Mr. Chairman.
20 BENNY WAMPLER: Mr. Wilson.
21 BOB WILSON: Let me extenuate that just a bit. I think what Ms.
22 Justus is referring to is on the previous... the approved W-34 and W-35 units,
23 which were for disbursement on the O. H. Keene Heirs only.

24

--

1 BRENDA JUSTUS: Only, uh-huh.

2 PATSY MOORE: That's all we signed. My name is Patsy Moore.

3 The day I got the contract for the O. H. Keene, I called Greg Bowman and I asked
4 him if I should get a lawyer because I don't have much education and I asked him
5 if I needed to get a lawyer to go over that with me because I didn't understand.
6 He said, "No, ma'am." He said, "We'll do you right on this." I specifically asked
7 him three times is this only for the O. H. Keene Heirs and he said, "Yes." We
8 come to Bob Wilson's office and when we come to sign for the escrow, we
9 specifically asked Diane Davis if this was only for the O. H. Keen Tract of land
10 and she said, "Yes." She also sent a certified letter to our niece in North Carolina
11 and we had her to write on there only O. H. Keene Heirs only. This is the Linkous
12 Horn Heirs. Nobody has signed anything for the Linkous Horn because we have
13 a lawyer for that...for that that has been working on that.

14 BENNY WAMPLER: But it's not the same unit, right?

15 BOB WILSON: No, sir. No, sir. This...the unit that they're referring
16 to was, in fact, only the O. H. Keene Heirs.

17 BENNY WAMPLER: But see that's not before us today, right?

18 BOB WILSON: No, it's not.

19 PATSY MOORE: Okay. My name is Patsy again. Why has this got
20 the Linkous Horn Heirs on it--?

21 BRENDA JUSTUS: Split agreement.

22 PATSY MOORE: ---when nobody has signed that? See we have a
23 lawyer for that and has been working on that all that time.

24

--

1 BENNY WAMPLER: Mr. Swartz, can you shed some light on it?

2 MARK SWARTZ: They have a generic agreement that they all
3 signed---.

4 SHIRLEY KEENE: Excuse me?

5 MARK SWARTZ: ---that says what was just read into the record. If
6 they have some different agreement that doesn't look like this, they need to show
7 us because this is the agreement that we have that we're...you know, that has
8 been represented to us that this is a split agreement that we're paying under. You
9 know, if they've got some agreement that's specific as opposed to generic...I
10 mean, this agreement says, and you know we've got a collection of them, it's a
11 50/50 agreement wherever Hurt-McGuire owns the coal and we own the gas. It
12 doesn't talk about anything else.

13 THELMA OSBORNE: I'm Thelma.

14 MARK SWARTZ: Right.

15 PATSY MOORE: I am Patsy Moore again. He specifically, Greg
16 Bowman, he told me plain that day that it only required for the O. H. Keene Tract
17 of land only. Nobody has signed nothing for the Linkous Horn, nobody. That's
18 one grandpa and the O. H. Keene is another one. It's totally across the county
19 different, the two tracts of land. This is what we couldn't understand was why we
20 were here for
21 O. H...for the Linkous Horn when nobody has signed nothing... nothing.

22 BENNY WAMPLER: Well, I mean, they're
23 representing---.

24

--

1 SHIRLEY KEENE: And I'm Shirley Keene.

2 BENNY WAMPLER: I mean, they're representing somebody must
3 have signed.

4 SHIRLEY KEENE: No, I didn't even get a paper for the O. H. Keene
5 nor the Linkous Horn. Everyone of these from fourteen down to eighteen is the
6 Linkous Horn wells. That's on the Linkous Horn Heirs property. What they
7 signed was the O. H. Keene. It's not even in the same area.

8 THELMA OSBORNE: Different county.

9 MARK SWARTZ: You know, unless somebody---.

10 THELMA OSBORNE: I'm Thelma Osborne. I haven't signed
11 anything, nothing on either side.

12 SARA DAY: Your name is not that.

13 MARK SWARTZ: You know, unless somebody shows us an
14 agreement in writing that is different than what we have, I mean, you know, we
15 have---.

16 BENNY WAMPLER: Who signed your agreement? Did the people
17 here all sign that agreement?

18 MARK SWARTZ: Yeah, the people that are listed here, all signed
19 an agreement identical to this one. We brought one that Richard Osborne signed
20 as an example. But, you know, all of the people listed here are for escrow signed
21 this form.

22 PATSY MOORE: Sir, this is Patsy Moore again, I disagree with that
23 because the document we got was four pages and it only the O. H. Keene...only
24

1 O. H. Keene on it. I was assured that day only for the O. H. Keene.

2 MARK SWARTZ: Show me that document.

3 PATSY MOORE: And this...that's what I would like to know. When
4 we mailed it out to Greg Bowman, we was supposed to got it back. Right here is
5 what he sent us back. I mean, the...whatever. That paper that I got. This kind.
6 Okay, this right here, there's a lot of stuff in it that was not even on the document
7 that we signed.

8 MARK SWARTZ: That's a lease. That's a lease.

9 PATSY MOORE: Well, it wasn't even nothing concerning what we
10 signed. It had only O. H. Keene. It was for 15 acres of land.

11 MARK SWARTZ: What she just showed me is a lease. This is a
12 split agreement.

13 PATSY MOORE: I don't have it with me. I mailed it back to Greg
14 Bowman because it had on there to take that to a notary public and sign it and
15 send it back to them. They have changed that theirselves after they got it back, only
16 God knows. But the other night I did, I've been praying about this, I could see all
17 of you people around this table, twelve, at judgment day if this is...if this is stole
18 from us, you'll see...you'll see what will pay.

19 BENNY WAMPLER: I don't understand what you're talking about
20 stole. I don't believe for a minute they would change a document.

21 PATSY MOORE: Well, they've changed the document.

22 BRENDA JUSTUS: Oh, yeah.

23 PATSY MOORE: They've changed it because what we signed had
24

1 right on the top, it had O. H. Keene, 15 acres of land. It had for a split agreement
2 for the Hurt-McGuire, which Hurt-McGuire don't even own the gas in that. They
3 own the coal, but they didn't even own the gas in it. When I called Greg Bowman
4 he assured us that that was only for that tract of land only.

5 BRENDA JUSTUS: And we went in front of him and his notary and
6 had it notarized at his office at the time he told us it was the O. H. Keene Heirs
7 only. It had nothing to do with the Horn Heirs.

8 BENNY WAMPLER: I'm not disputing what he may have told you,
9 ma'am. I'm just simply saying they would have no interest in...they don't benefit
10 either way this goes as far as ---.

11 PATSY MOORE: Yes, they do.

12 BRENDA JUSTUS: Oh, yes, they do. We haven't even received
13 anything.

14 BENNY WAMPLER: Well, I'm talking about...that's money in
15 escrow. They're talking about paying it out of escrow here.

16 PATSY MOORE: But why would they pay it out of the Linkous Horn
17 when nobody signed anything for the Linkous Horn?

18 BENNY WAMPLER: Well, we're not going to pay it out of the
19 Linkous Horn if nobody has signed for Linkous Horn.

20 PATSY MOORE: That's what...nobody has signed for the Linkous
21 Horn.

22 KENNETH OSBORNE: Mr. Chairman.

23 BENNY WAMPLER: Yes.
24
25

1 KENNETH OSBORNE: I'm Kenneth Osborne. This right here that
2 they have, this is a oil and gas coal seam lease.

3 BENNY WAMPLER: Right.

4 KENNETH OSBORNE: What Mr. Swartz is saying that signed there
5 is a royalty split agreement.

6 BENNY WAMPLER: Right.

7 MARK SWARTZ: Right.

8 KENNETH OSBORNE: When they received these...which we
9 received one of those...these agreements too. We never received an oil split
10 agreement. But I...you know, I don't know if they were under the
11 understanding...and this...this oil, gas and coal seam agreement lease states 15
12 acres. The Keene wells that we're talking about...how many acres does that
13 involve, 15?

14 BENNY WAMPLER: I don't...you know, I don't know.

15 PATSY MOORE: 15 acres on the O. H. Keene only.

16 KENNETH OSBORNE: Well, certainly at best it would be
17 misleading that they would think they would be signing an agreement for only the
18 Keene agreement 15 acres, which is stated in that, and then have a royalty
19 agreement...ever how they received it, they didn't not understand it. At most,
20 that's taking advantage of these people.

21 BRENDA JUSTUS: They said when we---.

22 KENNETH OSBORNE: I think, you know, we're talking about...I've
23 heard testimony today about giving notice and...they were certainly not given
24

1 notice that what they were signing not only involved the Keene Heirs deal, but
2 also they're going to...due to the way that it was wrote, they did not break it down
3 and explain...you know, we're not saying anything that Hurt-McGuire was involved
4 whether it be the Horn Heirs, the Keenes or whatever. They did not break it down
5 and explain to them that this is what you're signing to do an agreement split.
6 They were certainly taken advantage of.

7 BENNY WAMPLER: Well, you don't want your money that's in
8 escrow. Is that---?

9 PATSY MOORE: We would like to have it, but we'd like to have it
10 all.

11 BRENDA JUSTUS: On the O. H. Keene.

12 PATSY MOORE: But we'd like to have every one of them. But our
13 lawyer is working on that case and has been for a---.

14 BENNY WAMPLER: Who your lawyer?

15 PATSY MOORE: Peter Glubiack.

16 BENNY WAMPLER: Mr. Glubiack.

17 PATSY MOORE: He has been for seven or eight years or ever how
18 long?

19 BENNY WAMPLER: Is he...where did he go?

20 KENNETH OSBORNE: He's right behind you, sir.

21 BENNY WAMPLER: Mr. Glubiack, what do you have to say about
22 this?

23 COURT REPORTER: You need to come down here, sir.

24

--

1 PETER GLUBIACK: I understand. That's why I'm sitting way back
2 here.
3 (Laughs.)
4 BENNY WAMPLER: I wondered where you went.
5 PETER GLUBIACK: Mr. Chairman, I understand. I have met with a
6 lot of the various people here, particularly with Mr. Kenneth Osborne. I frankly
7 was not aware of what is going on. I understand both parties are frustrated. It's
8 my understanding that CNX is seeking to disburse to the O. H. Keene heirs that
9 portion of these tracts according to the percentage that's attributable to O. H.
10 Keene. Now, I don't remember if Horn is half and Keene is half.
11 BENNY WAMPLER: That's not what's before us right now.
12 MARY QUILLEN: No, no.
13 BENNY WAMPLER: The Thomas Stilwell Heirs and the Linkous
14 Horn heirs.
15 PATSY MOORE: Yeah, see the Linkous Horn Heirs is what you are
16 representing us on.
17 PETER GLUBIACK: Again, I'm better off saying I don't...I'm not...I'm
18 not aware of what's going on today other than there are Linkous Horn Heirs and
19 these folks I'm representing them on some Linkous Horn issues in terms of the
20 ownership of the gas. But I don't have any knowledge of today's distribution.
21 They say they didn't sign any distribution and you're trying to distribute Linkous
22 Horn and they say they don't want to distribute it and they didn't sign any split
23 agreement, unless Mr. Swartz can produce a split agreement saying the Linkous
24

1 Horn Heirs, then I guess I certainly understand what they're saying. I'm aware of
2 the O. H. Keene splits because they've been going on for some time. But I'm not
3 aware of or nor have I seen any Linkous Horn Heir splits. If there's an
4 agreement saying that, then maybe that's what Mr. Swartz is talking about. I'm
5 not aware of it. If they say they don't want their money, it seems pretty simple to,
6 at least the people who testified today that they don't want the split, then they
7 shouldn't be split. The reason for that, to my understanding is, they want all the
8 money. They don't want a split.

9 BENNY WAMPLER: Do you represent the Thomas Stilwell Heirs as
10 well?

11 PETER GLUBIACK: I can't...honestly, there are so many people, I
12 have boxes of material. I...I can't represent that I represent anybody. I'm mostly
13 dealing with Mr. Osborne. I know it involves the Linkous Horn Heirs. To my
14 knowledge, the Linkous Horn Heirs are actively seeking to determine to establish
15 their ownership of all of the gas. So, it would not be...at least the folks I've talked
16 to, would not be interested in splitting it. So, I don't know. Unless there's a split
17 agreement that states as the Linkous Horn heirs, and I'm not aware of the docket
18 today, then I'm certainly am not aware of their asking to have the Linkous Horn
19 Heirs split. If they're here today to object to it, it seems to me it's very simple, it
20 just stays there.

21 BENNY WAMPLER: Thank you. Yes, sir.

22 RONNIE OSBORNE: Even the contract that we signed, it's wrote,
23 "We paid you a \$1 in hand." How did they pay us a \$1 in hand when it was
24

1 mailed in the mail?

2 BENNY WAMPLER: I don't know what you're talking about.

3 SHARON PIGEON: He's speaking of legal consideration. That's---.

4 RONNIE OSBORNE: Yeah. A legal---.

5 SHARON PIGEON: That's often cited in documents.

6 RONNIE OSBORNE: Well, one more question...one question I'd

7 like to ask. I was talking to one of their business associates that's right on there,

8 Jim Arrington and CNX, I had a---.

9 BENNY WAMPLER: Hold on a second. Excuse me, Mr. Glubiack.

10 PETER GLUBIACK: Yes, sir.

11 BENNY WAMPLER: She's...you're getting feedback to where we

12 can't record what has been saying.

13 RONNIE OSBORNE: I had a dozer to go across a piece of property

14 and we was in a squabble over it. Phillip Lowe told me that Hurt-McGuire was

15 CNX. They said that was the same company. Is it...are we suppose to find out if

16 that's the same company or if it's two separate companies?

17 BENNY WAMPLER: Well, we're certainly not going to find that out

18 unless they represent it. They represent here as CNX. Hurt-McGuire is another

19 company as presented to this Board.

20 RONNIE OSBORNE: Well, Phillip...Phillip Lowe told me that it was

21 CNXs company.

22 SARA DAY: Well, I'm Sara Day and we...I don't get anything from

23 O. H. Keene stating anything, when the hearing or whatever.

24

1 PATSY MOORE: We ain't neither. See, the only thing we got was
2 that document...I am Patsy Moore. I called Greg when I got it, Mr. Bowman, and
3 he told me...he assured me that day that this was only for the O. H. Keene. Then
4 when we came to Bob Wilson's office, because they said we would have to go
5 there and sign a paper to have the money reim...out of the escrow and Diane
6 Davis told us then I asked her twice that day and she also wrote on a note to my
7 niece in North Carolina that it's only for the O. H. Keene Heirs.

8 BENNY WAMPLER: But Mr. Wilson said that was for another unit,
9 ma'am, and not this unit.

10 PATSY MOORE: Well, that's what I'm talking about. But nobody
11 has signed anything for the Linkous Horn. That's why we couldn't understand
12 why this come up for Linkous Horn when nobody has signed anything for Linkous
13 Horn.

14 MARK SWARTZ: Here's where I'm coming from, if anybody on the
15 list of people in the exhibit that Anita has prepared where she has testified she
16 has listed folks who signed royalty split agreements, if anybody denies signing a
17 royalty split agreement, I would ask them to say so directly today, I would ask that
18 it be continued for that person until next month so that we can bring the royalty
19 split agreement that they signed before you that was notarized and prove that. If
20 they're not denying they signed the agreement, the money needs to come out of
21 escrow. So, I mean...you know, the statute says you either sue over royalty splits
22 or you present a written agreement and you disburse it. I mean, we have written
23 agreements from people who want their money and apparently from people who

24

--

1 don't want their money. But we have signed royalty split agreements. If there is a
2 dispute as to whether or not we actually have a signed royalty agreement from
3 any of these people on this list in S-35, you know, tell us, you know, "I deny
4 signing a royalty split agreement." We'll be here next month and we'll bring it with
5 us and we'll offer...we'll have copies and we'll offer it as an exhibit and we'll
6 proceed from there. If we're talking about signing leases, that has nothing to do
7 with this today, you know. This is a royalty split agreement.

8 BENNY WAMPLER: Right. Well, we understand that.

9 MARK SWARTZ: You know, so, if there's a genuine dispute about
10 whether or not we have a royalty split agreement, tell us that's the dispute and
11 we'll bring them next month, we'll offer them into evidence and solve that problem.

12 BENNY WAMPLER: I'm going to go ahead and continue it until next
13 month.

14 MARTHA SMITH: My name is Martha Smith and I haven't signed
15 anything and we haven't got anything from the O. H. Keene.

16 BENNY WAMPLER: I'm going to go ahead and continue it until next
17 month and you bring those and we'll deal with it---.

18 MARK SWARTZ: We'll bring them. You bet.

19 PATSY MOORE: Sir, could I speak one more time? I'm Patsy
20 Moore.

21 BENNY WAMPLER: Yes.

22 PATSY MOORE: If he brings them, he can see on there that it was
23 only O. H. Keene.

24

--

1 BENNY WAMPLER: Well, if...I mean, they're not even on this unit,
2 ma'am. So, what we're saying is if it's for unit---.

3 PATSY MOORE: Well, that's what I'm talking---.

4 BENNY WAMPLER: If they match up and somebody signed it and
5 they're notarized, we'll disburse it, I'll tell you that right now. If they don't match
6 up---.

7 PATSY MOORE: Okay. All right.

8 MARK SWARTZ: Right.

9 BENNY WAMPLER: ---we're not going to disburse them.

10 PATSY MOORE: Okay. What...what I was saying though if...I
11 mean, like see where we had a lawyer for the Linkous Horn and then this came
12 out for the Linkous Horn, nobody knew who had signed the split agreement for
13 them. But we did sign...I did sign for the O. H. Keen only and I agree that I did
14 sign that one. There was three or four of us that did. But nothing for the Linkous
15 Horn.

16 KENNETH OSBORNE: Mr. Chairman.

17 BENNY WAMPLER: Wait just a second. She was next.

18 MARTHA WILLIAMS: I'm Martha Williams, Salem, Virginia. Mr.
19 Chairman, would you please get Mr. Swartz to read the list of names that he has
20 so we'll know exactly whose names are on the list? Would that be possible?

21 MARK SWARTZ: Sure. I mean, Tract 3 is Patsy and Clyde Moore,
22 Brenda and Eddie Justus, James R. Osborne, Phyllis W. Osborne, Ronnie
23 Osborne, Charles M. Osborne, Richard Osborne, Joyce Lineberry, Darlene
24

1 Osborne. Then in Tract 2, you've got some of the same people, but a long...no, a
2 longer list, Beula V. Osborne, Martha J. Stilwell, Virginia N. Stilwell, Nancy
3 Jackson, Darlene Ward, Maxie Boyd, Ruth Osborne Smith, Judy Blankenship,
4 John Osborne, Ida Proffitt, Hubbard Osborne, Arland W. Osborne, Jackie D.
5 Osborne, Marvin J. Osborne, Leonard C. Stilwell, Connie Stilwell (J), Wanda
6 Hagy, Bessie Lowe, Verna Dean R. Lizburgh, Gladys E. Pollard, David W.
7 Stilwell, Thomas H. Stilwell, Daniel J. Stilwell and Bernice R. Lamb. That's just S-
8 35.

9 PATSY MOORE: Could I speak one more time? I'm Patsy Moore.
10 Is any of these wells on the O. H. Keene land or where are they located?

11 BENNY WAMPLER: The O. H. Keene Heirs are not listed here.

12 PATSY MOORE: They're not on it?

13 BENNY WAMPLER: No.

14 KENNETH OSBORNE: Mr. Chairman. Just to make sure we're on
15 the right page. You are carrying this over?

16 BENNY WAMPLER: Yes, it's continued until next month and they're
17 to present to us the signed split agreements.

18 MARK SWARTZ: You bet.

19 BENNY WAMPLER: We're going to disburse everybody that has
20 signed the split agreement.

21 KENNETH OSBORNE: I thank you for carrying this over, sir. These
22 people are not saying they didn't sign a split agreement. They were led to believe
23 that they were signing a split agreement only for the Keene Heirs.

24

--

1 MARK SWARTZ: Well, that's my problem. If that's true, then let's
2 disburse all of this money today. I mean, if they're not contending---.

3 BENNY WAMPLER: Well, I can't let him be a lawyer for them
4 anyway.

5 MARK SWARTZ: That's my problem. You know, I can't decide
6 where we're headed. Okay, I understand.

7 BENNY WAMPLER: Yeah, I understand. Yeah, I---.

8 BRENDA JUSTUS: Well, can I ask one question? I'm Brenda
9 Justus. If you signed one lease, does it count for the whole county?

10 BENNY WAMPLER: No.

11 BRENDA JUSTUS: Well---.

12 MARK SWARTZ: But this is not a lease that we're talking about.

13 PATSY MOORE: It's a split agreement.

14 BENNY WAMPLER: It's not...we're not talking about a lease. This
15 is a split agreement, ma'am,---.

16 BRENDA JUSTUS: Split agreement, yeah.

17 BENNY WAMPLER: ---where the parties that own the gas and the
18 parties that own the coal come together and agree to split 50/50 because the
19 Courts haven't determined who really owns it, okay? That's what...that's what
20 we're talking about here in simple terms, okay? So---.

21 RONNIE OSBORNE: Could I speak one more time? I'm Ronnie
22 Osborne. I was the one that had my name took off because of my wife having to
23 sign. Do I have to...do I need to bring her next month?

24

--

1 MARK SWARTZ: It would probably be a good idea.

2 BENNY WAMPLER: Yes, that would be good.

3 RONNIE OSBORNE: Because they got Ronnie and Sherry on some

4 papers and then they've just got my name on some papers.

5 BENNY WAMPLER: Right. Yeah, you had said that you didn't want

6 to be signing it. So, you should bring her. Okay, thanks.

7 MARK SWARTZ: Now, all the rest of these disbursements involve

8 precisely what we've been talking about. So, you might as well continue all of

9 them.

10 BENNY WAMPLER: All right. We're going to continue docket

11 number VGOB-98-0324-0626-04, docket VGOB-98-0421-0695-02, docket VGOB-

12 98-0324-0625-04. Is that other one also in there?

13 MARK SWARTZ: The U-1?

14 ANITA DUTY: Yeah, yeah.

15 MARK SWARTZ: Yeah.

16 BENNY WAMPLER: It is also?

17 MARK SWARTZ: Yeah.

18 BENNY WAMPLER: Okay. Docket number 98-0421-0648-01.

19 They're all continued until next month. It will be the third Tuesday.

20 MARK SWARTZ: Thank you all.

21 BENNY WAMPLER: Thank you. The next item on... folks, we're still

22 doing business here. The next item on the agenda is a petition from Equitable

23 Production Company for a well location exception for proposed well V-536809.

24

1 This is docket number VGOB-06-0418-1617. We'd ask the parties that wish to
2 address the Board in this matter to come forward at this time.

3 (The parties were not present in the room. Off record.)

4 BENNY WAMPLER: I've already called you.

5 JIM KAISER: Ready when you are, sir.

6 BENNY WAMPLER: The record will show no others. You may
7 proceed.

8 (Don Hall is duly sworn.)

9 (Jim Kaiser passes out an exhibit.)

10

11 DON HALL

12 having been duly sworn, was examined and testified as follows:

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. KAISER:

15 Q. All right. Mr. Hall, if you would state your name for the
16 Board, who you're employed by and in what capacity?

17 A. My name is Don Hall. I'm employed by Equitable
18 Production Company as District Landman.

19 Q. And your responsibilities include the land involved in this
20 unit and in the surrounding area?

21 A. They do.

22 Q. Are you familiar with the application that we filed seeking a
23 location exception for well number V-536809?

24

--

1 A. Yes.

2 Q. Have all interested parties been notified as required by
3 Section 4(B) of the Virginia Gas and Oil Board Regulations?

4 A. Yes.

5 Q. Could you indicate for the Board the ownership of the oil
6 and gas underlying the unit for this well?

7 A. We have a 100% leased.

8 Q. And does Equitable have the right to operate any
9 reciprocal wells?

10 A. We do.

11 Q. In this particular case, that would be V-536807 as the
12 reciprocal well?

13 A. It's actually...we had to renumber it. It's V-537064 as
14 shown on the exhibit.

15 BENNY WAMPLER: Would you repeat what you just said, Mr. Hall?

16 A. Initially, I think it was...the application may have been for
17 V-536807. That well was...we had some mechanical problems and ended up
18 plugging it and had to move the location about 70 more feet and when we did that
19 we changed the number to 537064. The exhibit depicts a distance from that
20 second well to 7064.

21 Q. Okay. So, we're going to need some testimony then to
22 correct the application because we filed it as being an exception from 536807,
23 which it looks like it has been plugged.

24

1 A. Right.

2 Q. And that well was 2177 feet north, 53 degrees 30 minutes
3 and five seconds west of 536809---.

4 A. Actually---.

5 Q. ---which is still the same. But now we're looking at the
6 distance between the wells as being 2175.16, is that right?

7 A. Yeah, it was (inaudible) the distance. Actually, what your
8 application said...we just changed the number and not the location of the well.
9 We repermited it...started to repermit it as 6807 and we had to...we had to give it
10 a new number for AFE purposes.

11 Q. Okay. But the distance from...from the well that...from
12 536809 is now actually 2175.16?

13 A. That's correct.

14 Q. Because in the application it states 2177.

15 A. Okay.

16 BENNY WAMPLER: Yeah.

17 JIM KAISER: So...and we'll pick that up in the... when we draft the
18 order.

19 BENNY WAMPLER: Well, it was going from the plugged well
20 versus the proposed.

21 JIM KAISER: Exactly.

22 BENNY WAMPLER: So, the record will show that correction.

23 Q. Are there any correlative rights issues, Mr. Hall?

24

1 A. No.

2 Q. Could you explain for the Board, in conjunction with the
3 exhibit that you just passed out, why we're seeking this location exception?

4 A. Well, of course, the well that we're seeking the exception
5 from V-537064...yeah, 7064, you see the circles around the various wells there,
6 those circles depict a 2500 foot radius around those wells to...where they don't
7 intercept is in the blue area, which is the only place that you could legally put a
8 well and get legal spacing from all of these adjoining wells. The problem with the
9 area in the blue is the southern part of that, we have our compressor station on
10 that and several pipelines coming and going from it. The northern part is about a
11 55 to 60% grade. You wouldn't be able to get it on it. So, the reason we put the
12 well across the road from the compressor station at a shorter distance was...that's
13 the reason because of the facilities and---

14 Q. So, both topographic and facility constraints on a legal
15 location?

16 A. Right, yes.

17 Q. Okay. In the event this location exception were not
18 granted, would you project the estimated loss of reserves resulting in waste?

19 A. 200 million cubic feet.

20 Q. And what's the total depth of this proposed well under the
21 plan of development?

22 A. 6360 feet.

23 Q. Is the applicant requesting that the force pool cover
24

1 conventional gas reserves to include all designated formations from the surface to
2 the total depth drilled?

3 A. Yes.

4 Q. In your opinion, would the granting of this location
5 exception be in the best interest of preventing waste, protecting correlative rights
6 and maximizing the recovery of the gas reserves underlying the unit for
7 V-536809?

8 A. Yes.

9 JIM KAISER: Nothing further of this witness at this time, Mr.
10 Chairman.

11 BENNY WAMPLER: This will be Exhibit A. Any questions from
12 members of the Board?

13 (No audible response.)

14 BENNY WAMPLER: Would you repeat the reserves?

15 DON HALL: 200...200 million cubic feet.

16 BENNY WAMPLER: Thank you. Do you have anything further?

17 JIM KAISER: Mr. Chairman, we'd ask that the application be
18 approved as submitted with the changes as to the reciprocal well and the distance
19 between the two wells.

20 BENNY WAMPLER: Is there a motion?

21 PEGGY BARBAR: Motion to approve.

22 MARY QUILLEN: Second.

23 BENNY WAMPLER: Second. Any further discussion?

24

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1 (No audible response.)

2 BENNY WAMPLER: All in favor, signify by saying yes.

3 (All Board members signify by saying yes.)

4 BENNY WAMPLER: Opposed, say no.

5 (No audible response.)

6 BENNY WAMPLER: You have approval. The next item on the
7 agenda is a petition from Equitable Production Company for pooling of coalbed
8 methane gas unit VC-536560, docket number VGOB-06-0418-1618. We'd ask
9 the parties that wish to address the Board in this matter to come forward at this
10 time.

11 JIM KAISER: Mr. Chairman, again, Jim Kaiser and Don Hall on
12 behalf of Equitable Production Company.

13 BENNY WAMPLER: The record will show no others. You may
14 proceed.

15

16 DON HALL

17 DIRECT EXAMINATION

18 QUESTIONS BY MR. KAISER:

19 Q. Mr. Hall, again, state your name, who you work for and
20 what your responsibilities include?

21 A. My name is Don Hall. I'm employed by Equitable
22 Production Company as District Landman.

23 Q. Are you familiar with our application seeking to pool any
24

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1 unleased interest in the unit for well
2 VC-536560---?
3 A. Yes.
4 Q. ---which was dated March the 17th, 2006?
5 A. Yes.
6 Q. We do have somebody.
7 BOB WILSON: Mr. Chairman, there are some folks here that want
8 to identify themselves for this---.
9 BENNY WAMPLER: Okay.
10 (Lady falls. Off record.)
11 LOIS DOTSON BAILEY: Lois Dotson Bailey. I'm one of the Heirs in
12 this.
13 COURT REPORTER: Lois?
14 LOIS DOTSON BAILEY: Uh-huh.
15 BENNY WAMPLER: We're going to let them go ahead and proceed
16 and then we'll let you ask any questions.
17 LOIS DOTSON BAILEY: Okay.
18 Q. Mr. Hall, are you familiar with the application that Equitable
19 filed seeking to pool any unleased interest in the unit for VC-536560, which was
20 dated March the 17th, 2006?
21 A. Yes.
22 Q. Does Equitable own drilling rights in the unit involved
23 here?
24

1 A. We do.

2 Q. Now, prior to the filing of the application, were efforts made
3 to contact the respondents within the unit and an attempt made to work out a
4 voluntary lease agreement?

5 A. Yes.

6 Q. And what, at this time, is the interest under lease to
7 Equitable for the gas estate within the unit?

8 A. We have 94.13725% of the gas estate leased.

9 Q. And the interest under lease to Equitable for the coal
10 estate within the unit?

11 A. We have 100% of the coal estate.

12 Q. And are all unleased parties set out at Exhibit B-3?

13 A. Yes.

14 Q. Okay. SO, that would mean then that the portion of the
15 gas estate within the unit remains unleased is 5.862750, is that correct?

16 A. Yes.

17 Q. We do have some unknown respondents within this unit.
18 Would it be your testimony that reasonable and diligent efforts were made and
19 sources checked to identify and locate any unknown heirs including primary
20 sources such as deed records, probate records, assessor's records, treasurer's
21 records and secondary sources such as telephone directories, city directories,
22 family and friends?

23 A. Yes.

24

1 Q. In your professional opinion, was due diligence exercised
2 to locate each of the respondents named in Exhibit B?
3 A. Yes.
4 Q. And are the addresses set out in Exhibit B to the
5 application the last known addresses for the respondents?
6 A. They are.
7 Q. Are you requesting this Board to force pool all the
8 unleased interest as listed at Exhibit B-3 to the application?
9 A. Yes.
10 Q. Now, are you familiar with the fair market value of drilling
11 rights in the unit here and in the surrounding area?
12 A. Yes.
13 Q. Could you advise the Board as to what those are?
14 A. We pay a five dollar bonus with a five year term and a one-
15 eighth royalty.
16 Q. In your opinion, do the terms you've just testified to
17 represent the fair market value of and fair and reasonable compensation to be
18 paid for drilling rights within this unit?
19 A. They do.
20 Q. Now, as to those respondents who remain unleased and
21 are listed at Exhibit B-3, do you agree that they be allowed the following statutory
22 options with respect to their ownership interest within the unit: 1)
23 Participation; 2) a cash bonus of five dollars per net
24

1 mineral acre plus a one-eighth of eight-eighths royalty; or
2 3) in lieu of a cash bonus and one-eighth of eight-eighths
3 royalty share in the operation of the well on a carried basis
4 as a carried operator under the following conditions: Such
5 carried operator shall be entitled to the share of production
6 from the tracts pooled accruing to his/her interest exclusive
7 of any royalty or overriding royalty reserved in any leases,
8 assignments thereof or agreements relating thereto of such
9 tracts, but only after the proceeds applicable to his or her
10 interest equal, A) 300% of the share of such costs applicable
11 to the interest of the carried operator of a leased tract or
12 portion thereof; or B) 200% of the share of such costs
13 applicable to the interest of a carried operator of an
14 unleased tract or portion thereof?

15 A. Yes.

16 Q. Do you recommend that the order provide that
17 all elections by the respondents be in writing and sent to
18 the applicant at Equitable Production Company, 1710
19 Pennsylvania Avenue, P. O. Box 2347, Charleston, West
20 Virginia 25302, Attention: Leslie Smith, Regulatory?

21 A. Yes.

22 Q. Should this be the address for all communi-
23 cations with the applicant concerning any force pooling

24

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1 order?

2 A. Yes.

3 Q. Do you recommend that the order provide that
4 if no written election is properly made by a respondent, then
5 such a respondent should be deemed to have elected the cash
6 option in lieu of participation?

7 A. Yes.

8 Q. Should unleased respondents be given 30 days
9 from the date that they receive the recorded Board order to
10 file their written elections?

11 A. Yes.

12 Q. If an unleased respondent elects to
13 participate, should they be given 45 days to pay the
14 applicant for their proportionate share of well costs?

15 A. Yes.

16 Q. Does the applicant expect the party electing
17 to participate to pay in advance that party's share of actual
18 completed well costs?

19 A. We do.

20 Q. Should the applicant be allowed a 120 days
21 following the recordation date of the Board order and
22 thereafter annually on that date until production is
23 achieved, to pay or tender any cash bonus or delay rental

24

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1 becoming due under any force pooling order?

2 A. Yes.

3 Q. Do you recommend that the order provide that
4 if a respondent elects to participate but fails to pay their
5 proportionate share of well costs, then that respondent's
6 election to participate should be treated as having been
7 withdrawn and void and that respondents should be deemed to
8 have leased?

9 A. Yes.

10 Q. Do you recommend that the order provide that
11 where a respondent elects to participate but defaults in
12 regard to the payment of well costs, any cash sum due and
13 payable to that respondent be paid within 60 days after the
14 last date on which that respondent could have paid those well
15 costs?

16 A. Yes.

17 Q. Okay. In this particularly case, we do have
18 an Exhibit E. So, the Board does need to...the Board needs
19 to establish an escrow account for both conflicting claims
20 and unknown and unlocateable owners. That escrow account
21 will cover the proceeds from Tracts 1, 4 and 5, is that
22 correct?

23 A. That's correct.

24

--

1 A. And who should be named operator under any
2 force pooling order?

3 A. Equitable Production Company.

4 Q. And what is the total depth of the proposed
5 well under the plan of development?

6 A. 2476 feet.

7 Q. And the estimated reserves for the unit?

8 A. 225 million cubic feet.

9 Q. Now, are you familiar with the well costs
10 for this proposed well?

11 A. Yes.

12 Q. Has an AFE been reviewed, signed and
13 submitted to the Board as Exhibit C to the application?

14 A. It has.

15 Q. In your opinion, does this AFE represent a
16 reasonable estimate of the well costs?

17 A. Yes.

18 Q. Could you state for the Board both the dry
19 hole costs and completed well costs for this well?

20 A. The dry hole costs is \$149,317 and the
21 completed well costs is \$345,709.

22 Q. Do these costs anticipate a multiple
23 completion?

24

1 A. They do.

2 Q. Does your AFE include a reasonable charge
3 for supervision?

4 A. Yes.

5 Q. In your professional opinion, would the
6 granting of this application be in the best interest of
7 conservation, the prevention of waste and the protection of
8 correlative rights?

9 A. Yes.

10 JIM KAISER: Nothing further of this witness at
11 this time, Mr. Chairman.

12 BENNY WAMPLER: Questions of this witness from members of the
13 Board?

14 (No audible response.)

15 DON HALL: Are you okay?

16 BENNY WAMPLER: Ms. Bailey, are you okay?

17 LOIS DOTSON BAILEY: Yes.

18 BENNY WAMPLER: Do you have any questions of them or of us?

19 LOIS DOTSON BAILEY: Yes, I do. This is Lois Bailey. I'm not
20 satisfied with what they offered me because of the Heirs got the same as the main
21 ones gets. Do you all get that?

22 BENNY WAMPLER: The Heirs got the same as the main ones?

23 LOIS DOTSON BAILEY: Uh-huh. And I'm not satisfied with it. It's
24

1 just not enough. I feel like it's not enough.

2 JIM KAISER: She owns an undivided interest in Tract 5, Mr.

3 Chairman. There's quite a few...nineteen undivided interest owners in this tract
4 with interest ranging anywhere from 1.185% down to .01975%.

5 BENNY WAMPLER: They show your interest as .158%.

6 LOIS DOTSON BAILEY: Right here it is.

7 JIM KAISER: Mr. Hall, is it...maybe I need to call Mr. Wishoun down
8 here. I guess, he was the landman on this well.

9 DON HALL: Yeah. I think I can maybe answer it.

10 JIM KAISER: Yeah, but in general isn't it...isn't it your...Equitable's
11 policy to offer the same terms to each interest owner?

12 DON HALL: Well, from what I understand Ms. Bailey to say that
13 some of the people with a bigger interest got the same amount of money.
14 Basically, what it amounts to, if you've got a 100 acres and we pay a total over a
15 five year paid of \$17 an acre, that amounts to some money. But if you...if you've
16 got 5 acres and we've paid the \$17 an acre, that's usually less than a \$100.
17 When you've got these very small percentages that you're leasing from these
18 people, you know, if you multiple that percentage by \$17 it might be cents rather
19 than dollars. So, as a standard practice, whenever we get into these very small
20 percentage owners, we pay everybody \$100 for the lease, just a flat fee. That
21 maybe what she's saying. We have some of these people that have maybe a little
22 more smaller percentage than others.

23 JIM KAISER: They still got the \$100?

24

--

1 DON HALL: But they still get the \$100.

2 JIM KAISER: It's for, what, a five year paid up lease?

3 DON HALL: Right. Yes.

4 JIM KAISER: So, that's sort of a minimum payment?

5 DON HALL: Right. I'm assuming that may be what...what she's

6 referring to.

7 BENNY WAMPLER: Is that what you're...does that explain it to you

8 any at all or---?

9 LOIS DOTSON BAILEY: Not really.

10 DON HALL: Well, we...our paid up lease is based on a five year

11 bonus with the first year of \$3 a year and thereafter, which is a total of \$17 for five

12 years. If you have, you know, say 20 acres times \$17, that would...that would turn

13 out to be \$240. But since you only have a small percentage of this acreage, your

14 total...your acreage figures out to be...let me see here. The acreage in the unit is

15 .0928 acres. So, you have less than one-tenth of an acre in the unit. So, \$17

16 times one-tenth of an acre would be about seventeen cents, I guess.

17 AUDIENCE MEMBER: \$1.70.

18 DON HALL: \$1.70, yeah. So, to make it worthwhile to lease these

19 properties, we...anybody that has that small interest we give them a \$100

20 minimum payment, which figures out to be quite a bit more per acre. But since it's

21 small percentages that's...that's how we...how we do it. And some of these

22 people may have a little more percentage than you or a little less, but since they

23 all were such small percentages, everybody got a \$100. Is that what you're

24

1 referring to?

2 LOIS DOTSON BAILEY: Yes.

3 DON HALL: Does that...does that answer your question?

4 LOIS DOTSON BAILEY: Yes. That answers it.

5 DON HALL: Okay.

6 BENNY WAMPLER: Thank you. We hope you're okay. I hope that

7 fall didn't---.

8 LOIS DOTSON BAILEY: My arm is getting a little sore.

9 BENNY WAMPLER: Yeah, you'll be sore.

10 DON HALL: You landed on your shoulder, didn't you?

11 BENNY WAMPLER: It was a hard fall.

12 LOIS DOTSON BAILEY: Uh-huh.

13 BENNY WAMPLER: You sure will. We certainly hope you'll be

14 okay.

15 LOIS DOTSON BAILEY: Thank you.

16 BENNY WAMPLER: Thank you. Does you have anything further,

17 Mr. Kaiser?

18 JIM KAISER: Mr. Chairman, we'd ask that the application be

19 approved as submitted.

20 LOIS DOTSON BAILEY: Thank you.

21 BENNY WAMPLER: Thank you.

22 PEGGY BARBAR: Motion to approve.

23 BENNY WAMPLER: Motion to approve.

24

--

1 MARY QUILLEN: Second.

2 BENNY WAMPLER: Any further discussion?

3 (No audible response.)

4 BENNY WAMPLER: All in favor, signify by saying yes.

5 (All Board members signify by saying yes, but Donnie Ratliff.)

6 BENNY WAMPLER: Opposed, say no.

7 DONNIE RATLIFF: I'll abstain, Mr. Chairman.

8 BENNY WAMPLER: Mr. Ratliff abstains. You have approval. The
9 next item on the agenda is a petition from Equitable Production Company for
10 pooling of coalbed methane gas unit VC-535864. This is docket number VGOB-
11 06-0418-1619. We'd ask the parties that wish to address the Board in this matter
12 to come forward at this time.

13 JIM KAISER: Mr. Chairman, again, Jim Kaiser and Don Hall on
14 behalf of Equitable Production Company. We are going to have a revised Exhibit
15 A, the well location plat, because the one submitted with the application didn't
16 have the tracts numbered. It's a busy plat.

17 (Don Hall passes out a revised Exhibit A.)

18 BENNY WAMPLER: The record will show no others. You may
19 proceed.

20

21 DON HALL

22 DIRECT EXAMINATION

23 QUESTIONS BY MR. KAISER:

24

--

1 Q. Okay. Mr. Hall, do your responsibilities include the land
2 involved in this unit and the surrounding area?

3 A. They do.

4 Q. And, again, you're familiar with the application that
5 Equitable filed seeking pool any unleased interest for EPC well number VC-
6 535864, which was dated March the 17th, 2006?

7 A. Yes.

8 Q. Does Equitable own drilling rights in the unit involved
9 here?

10 A. We do.

11 Q. And prior to filing the application, were efforts made to
12 contact each of the respondents within the unit and an attempt made to work out a
13 voluntary agreement?

14 A. Yes.

15 Q. And what percentage of the gas estate within the unit does
16 Equitable have under lease at this time?

17 A. We have 93.539091% of the gas leased.

18 Q. And the interest under lease to Equitable in the coal estate
19 within the unit?

20 A. A 100%.

21 Q. And all the unleased parties are set out in Exhibit B-3 to
22 the application?

23 A. Yes.

24

1 Q. So, that means that the portion of the gas estate within the
2 unit that remains unleased is 6.460909?
3 A. That's correct.
4 Q. Okay. In this particular unit, we do not have any
5 unknowns, is that correct?
6 A. I believe, that's correct. Yes.
7 Q. Okay. In your professional opinion, was due diligence
8 exercised to locate each of the respondents named at Exhibit B?
9 A. Yes.
10 Q. And are the addresses set out at Exhibit B to the
11 application, the last known addresses for the respondents?
12 A. They are.
13 Q. Are you requesting this Board to force pool all unleased
14 interest as listed at Exhibit B-3 to the application?
15 A. Yes.
16 Q. And are you familiar with the fair market value of drilling
17 rights in the unit here and in the surrounding area?
18 A. Yes.
19 Q. Could you advise the Board as to what those normally are?
20 A. We pay a five dollar bonus with a five year term and a one-
21 eighth royalty.
22 Q. In your opinion, do the terms that you just testified to
23 represent the fair market value of and fair and reasonable compensation to be
24

1 paid for drilling rights within this unit?

2 A. Yes.

3 JIM KAISER: Mr. Chairman, as to any statutory election options and
4 implications and complications of such that are afforded to the respondents listed
5 at Exhibit B-3, we'd ask that the testimony taken previously in VGOB-06-0418-
6 1618 be incorporated for purposes of this hearing.

7 BENNY WAMPLER: That will be incorporated.

8 Q. Mr. Hall, the Board does need to establish an escrow
9 account in this case because we do have conflicting claims to the coalbed
10 methane, is that correct?

11 A. That's correct.

12 Q. And that escrow account will cover Tracts... excuse me,
13 just Tract 5?

14 A. That's correct.

15 Q. Okay. And who should be named operator under any
16 force pooling order?

17 A. Equitable Production Company.

18 Q. And the total depth for this well?

19 A. It's 2763 feet.

20 Q. And the estimated reserves for the unit?

21 A. 250 million cubic feet.

22 Q. Are you familiar with the well costs for this well?

23 A. Yes.

24

--

1 Q. An AFE has been reviewed, signed and submitted to the
2 Board as Exhibit C?
3 A. It has.
4 Q. Was this AFE...does this AFE represent a reasonable
5 estimate of the well costs, in your opinion?
6 A. It does.
7 Q. Could you state for the Board both the dry hole and
8 completed well costs for this well?
9 A. The dry hole costs is \$130,142 and the completed well
10 costs is \$359,780.
11 Q. Do these costs anticipate a multiple completion?
12 A. They do.
13 Q. Does your AFE include a reasonable charge for
14 supervision?
15 A. Yes.
16 Q. In your opinion, would the granting of this application be in
17 the best interest of conservation, the prevention of waste and the protection of
18 correlative rights?
19 A. Yes.
20 JIM KAISER: Nothing further of this Chairman...of this witness at
21 this time, Mr. Chairman.
22 BENNY WAMPLER: Questions from members of the Board?
23 (No audible response.)
24
25

1 BENNY WAMPLER: The well is Tract 1, is that correct?

2 JIM KAISER: Yes.

3 BENNY WAMPLER: The well is on Tract 1.

4 DON HALL: That's right. Yes.

5 BENNY WAMPLER: So, it's not...it's not on Tract 5. Any questions

6 from members of the Board?

7 (No audible response.)

8 BENNY WAMPLER: Do you have anything further?

9 JIM KAISER: Mr. Chairman, we'd ask that the application be

10 approved as submitted with the revised well plat.

11 BENNY WAMPLER: Is there a motion?

12 MARY QUILLEN: Motion to approve.

13 PEGGY BARBAR: I'll second.

14 BENNY WAMPLER: Second. Any further discussion?

15 (No audible response.)

16 BENNY WAMPLER: All in favor, signify by saying yes.

17 (All Board members signify by saying yes, but Donnie Ratliff.)

18 BENNY WAMPLER: Opposed, say no.

19 (No audible response.)

20 BENNY WAMPLER: You have approval.

21 DONNIE RATLIFF: I'll abstain, Mr. Chairman.

22 BENNY WAMPLER: On abstention, Mr. Ratliff. The next item on

23 the agenda is a petition from Equitable Production Company for pooling of

24

1 coalbed methane unit VC-505205. This is docket number VGOB-06-0418-1620.

2 We'd ask the parties that wish to address the Board in this matter to come forward
3 at this time.

4 JIM KAISER: Mr. Chairman, again, Jim Kaiser and Don Hall on
5 behalf of Equitable Production Company.

6 BENNY WAMPLER: The record will show no others. You may
7 proceed.

8 DON HALL

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. KAISER:

11 Q. Mr. Hall, do your responsibilities include the land involved
12 in this unit?

13 A. They do.

14 Q. Are you familiar with the application we filed seeking to
15 pool the unleased interest in Tract 4 in the unit for EPC well VC-505205, which
16 was dated March the 17th, 2006?

17 A. Yes.

18 Q. Does Equitable own drilling rights in the unit involved
19 here?

20 A. We do.

21 Q. Prior to the filing of the application, were efforts made to
22 contact each of the respondents in the unit and an attempt made to work out a
23 voluntary lease agreement?

24

--

1 A. Yes.

2 Q. And what is the interest of Equitable under lease at this

3 time within the gas estate?

4 A. We have 96.87% of the gas leased.

5 Q. And the interest under lease for the coal estate?

6 A. We have a 100%.

7 Q. And that means that 3.13% of the gas estate remains

8 unleased?

9 A. That's correct.

10 Q. And that is Tract 4 and that is the Garland B. Wolf Heirs

11 who we've not been able to locate or identify?

12 A. That's correct.

13 Q. And were reasonable and diligent efforts made and

14 sources checked to identify and locate any unknown heirs to include primary

15 sources such as deed records, probate records, assessor's records, treasurer's

16 records and secondary sources such as telephone directories, city directories,

17 family and friends?

18 A. Yes.

19 Q. In your opinion, was due diligence exercised to locate each

20 of the respondents named?

21 A. It was.

22 Q. And are the addresses set out in Exhibit B to the

23 application the last known addresses for the respondents?

24

1 A. Yes.

2 Q. Are you requesting this Board to force pool the unleased
3 interest listed at Exhibit B-3?

4 A. Yes.

5 Q. Again, are you familiar with the fair market value of drilling
6 right in the unit here and in the surrounding area?

7 A. Yes.

8 Q. Could you advise the Board as to what those normally are?

9 A. We pay five year bonus...a five year bonus on a five year
10 term with a one-eighth royalty.

11 Q. In your opinion, do the terms that you just testified to
12 represent the fair market value of and fair and reasonable compensation to be
13 paid for drilling rights within this unit?

14 A. They do.

15 JIM KAISER: Again, Mr. Chairman, as to any election options that
16 would be afforded the Garland Wolf Heirs, should they come forward, we'd ask
17 that the testimony previously taken in item 1618 this morning be incorporated.

18 BENNY WAMPLER: That will be incorporated.

19 Q. Mr. Hall, we do need have both a conflicting claim in Tract
20 4 and an unknown gas estate owner in Tract 4. So, the Board needs to establish
21 an escrow account for any proceeds attributable to Tract 4, is that correct?

22 A. That's correct.

23 Q. And who should be named operator under any force
24

1 pooling order?

2 A. Equitable Production Company.

3 Q. And what's the depth of this proposed well?

4 A. 3,052 feet.

5 Q. And the estimated reserves for the unit?

6 A. 250 million cubic feet.

7 Q. Has an AFE has been reviewed, signed and submitted to

8 the Board as Exhibit C?

9 A. Yes.

10 Q. In your opinion, does it represent a reasonable estimate of

11 the well costs?

12 A. It does.

13 Q. Could you state for the Board both the dry hole and

14 completed well costs?

15 A. The dry hole costs is \$161,130 and the completed well

16 costs is \$397,319.

17 Q. Do these costs anticipate a multiple completion?

18 A. They do.

19 Q. Does your AFE include a reasonable charge for

20 supervision?

21 A. Yes.

22 Q. In your professional opinion, would the granting of this

23 application be in the best interest of conservation, the prevention of waste and the

24

1 protection of correlative rights?

2 A. Yes.

3 JIM KAISER: Nothing further of this witness at this time, Mr.
4 Chairman.

5 BENNY WAMPLER: Questions from members of the Board?

6 (No audible response.)

7 BENNY WAMPLER: Do you have anything further?

8 JIM KAISER: Yes. Mr. Chairman, we'd ask that the application be
9 approved as submitted.

10 BENNY WAMPLER: Is there a motion?

11 PEGGY BARBAR: Motion to approve.

12 MARY QUILLEN: Second.

13 BENNY WAMPLER: Any further discussion?

14 (No audible response.)

15 BENNY WAMPLER: All in favor, signify by saying I.

16 (All Board members signify by saying I, but Donnie Ratliff.)

17 BENNY WAMPLER: I tricked you to see if you was paying attention.

18 (Laughs.)

19 BILL HARRIS: Well, we were.

20 BENNY WAMPLER: You were?

21 PEGGY BARBAR: That's right.

22 BENNY WAMPLER: Opposed, say no.

23 (No audible response.)

24

--

1 BENNY WAMPLER: You have approval.

2 DONNIE RATLIFF: I'll abstain, Mr. Chairman.

3 BENNY WAMPLER: One abstention, Mr. Ratliff. Next is a petition
4 from Equitable Production Company for pooling of a conventional gas unit V-
5 536718. This is docket number VGOB-06-0418-1621. We'd ask the parties that
6 wish to address the Board in this matter to come forward at this time.

7 JIM KAISER: Again, Mr. Chairman, Jim Kaiser and Don Hall on
8 behalf of Equitable Production Company. By way of introduction for this particular
9 application, the only unleased interest...it's a conventional well and the only
10 unleased interest is Tommy and Amy Bright's interest in Tract 2. Mr. Bright called
11 me at my office at about 7:50 this morning and stated that he had misunderstood
12 what Equitable's representative was trying to work out with him and that he would
13 be in the near future executing a voluntary lease. But since we don't have it and
14 he's going to be out of town for a couple of weeks, we told him that we would...I
15 think he may even tried to call the Board, we would go forward with the pooling
16 and then when he leased, we'd dismiss him out in a supplemental order process.

17 BENNY WAMPLER: Okay.

18

19 DON HALL

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. KAISER:

22 Q. So, Mr. Hall, you're familiar with Equitable's application
23 seeking to establish a unit and pool any unleased interest for EPC well V-536718,

24

--

1 which was dated March 17, 2006?

2 A. Yes.

3 Q. And does Equitable own drilling rights in the unit involved

4 here?

5 A. We do.

6 Q. And prior to the filing of the application, were efforts made

7 to contact each of the respondents and an attempt made to work out a voluntary

8 lease agreement?

9 A. Yes.

10 Q. What is the interest of Equitable under lease in this unit?

11 A. We have 79.65% leased.

12 Q. And the one unleased party set out in Exhibit B-3?

13 A. Is 20.35% unleased.

14 Q. Right. And we don't have any unknown or unlocateable

15 respondents in this unit, correct?

16 A. Correct.

17 Q. And the address set out in the Exhibit B to the application

18 are the last known addresses for the respondents?

19 A. Yes.

20 Q. Are you requesting this Board to force pool the unleased

21 interest listed at Exhibit B-3?

22 A. Yes.

23 Q. Again, are you familiar with the fair market value of drilling

24

1 right in the unit here and in the surrounding area?

2 A. Yes.

3 Q. Again, advise the Board as to what those are.

4 A. We pay a dollar bonus on a five year term and a one-
5 eighth royalty.

6 Q. In your opinion, do the terms that you just testified to
7 represent the fair market value of and fair and reasonable compensation to be
8 paid for drilling rights within this unit?

9 A. They do.

10 JIM KAISER: Again, Mr. Chairman, we'd ask that the
11 election...statutory election option testimony previously taken in docket number
12 1618 be incorporated for purposes of this hearing.

13 BENNY WAMPLER: That will be incorporated.

14 Q. In this particular case, Mr. Hall, the Board does not need to
15 establish an escrow account, is that correct?

16 A. That's correct.

17 Q. And who should be named operator under any force
18 pooling order?

19 A. Equitable Production Company.

20 Q. And what's the total depth of the proposed well?

21 A. 5199 feet. I think the AFE---.

22 Q. Yeah, the application is showing 5224.

23 A. Yes.

24

--

1 Q. So, we've got a correction there.

2 A. We've got a correction. It's...5199 was the actual depth.

3 MARY QUILLEN: 5199?

4 DON HALL: 5199.

5 Q. 5199 rather than 5224.

6 BENNY WAMPLER: So, you are correcting it?

7 DON HALL: Yes.

8 Q. And the estimated reserves for this unit?

9 A. 300 million cubic feet.

10 Q. Has AFE has been reviewed, signed and submitted to the

11 Board as Exhibit C?

12 A. It has.

13 Q. In your opinion, does it represent a reasonable estimate of

14 the well costs?

15 A. Yes.

16 Q. Could you state those costs for the Board?

17 A. The dry hole costs is \$235,037 and the completed well

18 costs is \$530,691.

19 Q. Do these costs anticipate a multiple completion?

20 A. They do.

21 Q. Does your AFE include a reasonable charge for

22 supervision?

23 A. Yes.

24

25

1 Q. In your professional opinion, would the granting of this
2 application be in the best interest of conservation, the prevention of waste and the
3 protection of correlative rights?

4 A. Yes.

5 JIM KAISER: Nothing further at this time from this witness, Mr.
6 Chairman.

7 BENNY WAMPLER: Questions from members of the Board?
8 (No audible response.)

9 BENNY WAMPLER: Do you have anything further?

10 JIM KAISER: Mr. Chairman, we'd ask that the application be
11 approved as submitted.

12 BENNY WAMPLER: Is there a motion?

13 MARY QUILLEN: Motion to approve.

14 BILL HARRIS: Second.

15 BENNY WAMPLER: Any further discussion?

16 (No audible response.)

17 BENNY WAMPLER: All in favor, signify by saying yes.

18 (All Board members signify by saying yes, but Donnie Ratliff.)

19 BENNY WAMPLER: Opposed, say no.

20 DONNIE RATLIFF: I'll abstain, Mr. Chairman.

21 BENNY WAMPLER: One abstention, Mr. Ratliff. The next item on
22 the agenda is a petition from Equitable Production Company for pooling of
23 conventional gas unit
24

1 V-536395. This is docket number VGOB-06-0418-1622. We'd ask the parties
2 that wish to wish to address the Board in this matter to come forward at this time.

3 JIM KAISER: Mr. Chairman, again, Jim Kaiser and Don Hall on
4 behalf of Equitable Production Company.

5 PATTY WINEGAR: I may have questions.

6 BENNY WAMPLER: That's fine. She's the one that helped you a
7 minute ago, Don, so you remember that.

8 (Laughs.)

9 PATTY WINEGAR: I had my calculator.

10 DON HALL: Oh, okay.

11 JIM KAISER: She's doing the math for you.

12 DON HALL: Well good.

13 COURT REPORTER: What's your name, please?

14 PATTY WINEGAR: My name is Patty Winegar.

15 BENNY WAMPLER: We'll let them go ahead and present and then
16 we'll let you ask questions.

17

18 DON HALL

19 DIRECT EXAMINATION

20 QUESTIONS BY MR. KAISER:

21 Q. Mr. Hall, are you familiar with the application that Equitable
22 filed seeking to establish a unit and pool any unleased interest for EPC well
23 number V-536395, which was dated March the 17th, 2006?

24

--

1 A. Yes.

2 Q. And does Equitable own drilling rights in the unit involved
3 here?

4 A. We do.

5 Q. And prior to the filing of the application, were efforts made
6 to contact each of the respondents owning interest and an attempt made to work
7 out a voluntary agreement?

8 A. Yes.

9 Q. What is the interest that Equitable has under lease in the
10 gas estate presently?

11 A. We have 93.2725% leased.

12 Q. And are all the unleased parties set out at Exhibit B-3?

13 A. Yes.

14 Q. So, that means there's 6.7275% of the gas estate that
15 remains unleased?

16 A. That's correct.

17 Q. Now, in this particular unit, there are unlocateable and
18 unknown interest owners, is that correct?

19 A. Yes.

20 Q. And your testimony would be that reasonable and diligent
21 efforts were made and sources checked to identify and locate these unknown
22 interest owners including primary sources such as deed records, probate records
23 and assessor's records, treasurer's records and secondary sources such as
24

1 telephone directories, city directories, family and friends?

2 A. Yes.

3 Q. In your professional opinion, was due diligence exercised
4 to locate each of the respondents named herein?

5 A. Yes.

6 Q. And are the addresses set out in the Exhibit B to the
7 application the last known addresses for the respondents?

8 A. Yes.

9 Q. Are you requesting this Board to force pool all unleased
10 persons interest listed at Exhibit B-3?

11 A. Yes.

12 Q. Again, are you familiar with the fair market value of drilling
13 right in the unit here and in the surrounding area?

14 A. Yes.

15 Q. Again, advise the Board as to what those are?

16 A. We pay a dollar bonus on a five year term with a one-
17 eighth royalty.

18 Q. In your opinion, do the terms that you just testified to
19 represent the fair market value of and fair and reasonable compensation to be
20 paid for drilling rights within this unit?

21 A. Yes.

22 JIM KAISER: Again, Mr. Chairman, I'd ask that the statutory election
23 option testimony taken in item 1618 be incorporated for purposes of this hearing.

24

--

1 BENNY WAMPLER: That will be incorporated.

2 Q. Now, Mr. Hall, we do need to...the Board does need to

3 establish an escrow account in this case because of the unlocateables and that

4 would cover Tracts 3, 4...3 and 4?

5 A. That's correct.

6 Q. And who should be named operator under any force

7 pooling order?

8 A. Equitable Production Company.

9 Q. And what's the total depth of this proposed well?

10 A. 6282 feet.

11 Q. And the estimated reserves for the unit?

12 A. 300 million cubic feet.

13 Q. Are you familiar with the well costs for this well?

14 A. Yes.

15 Q. Has an AFE been reviewed, signed and submitted to the

16 Board as Exhibit C?

17 A. It has.

18 Q. In your opinion, does it represent a reasonable estimate of

19 the well costs?

20 A. Yes.

21 Q. Could you state for the Board both the dry hole costs and

22 completed well costs for this well?

23 A. The dry hole costs is \$227,315 and the completed well

24

1 costs is \$420,457.

2 Q. Do these costs anticipate a multiple completion?

3 A. They do.

4 Q. Does your AFE include a reasonable charge for
5 supervision?

6 A. Yes.

7 Q. In your professional opinion, would the granting of this
8 application be in the best interest of conservation, the prevention of waste and the
9 protection of correlative rights?

10 A. Yes.

11 JIM KAISER: Nothing further of this witness at this time, Mr.
12 Chairman.

13 BENNY WAMPLER: Questions from members of the Board?
14 (No audible response.)

15 BENNY WAMPLER: Ms. Winegar?

16 PATTY WINEGAR: Thank you.

17 JIM KAISER: She's from Kingsport. I thought I recognized you.
18 You're not Heather's mom, are you?

19 PATTY WINEGAR: Yes, I am.

20 JIM KAISER: Her daughter works for me.

21 (Laughs.)

22 PATTY WINEGAR: I should say first of all that this has been quite
23 an educational experience. When the party from your company came soliciting
24

1 signatures, I'd never was at home. I wanted to say, I wanted to solicit your help to
2 make layman's term out of this document. But anyway, I have a lot of questions.
3 On the 42 acre tract, which I own a very small percentage of I'll state up front, how
4 do you determine that 7.43 acres? How do you come up with that figure?

5 DON HALL: The engineers calculate that from the...the well unit is a
6 total of 112.69 acres. So, right here is the (inaudible)---

7 PATTY WINEGAR: Right.

8 DON HALL: ---and then the engineer or surveyors when they put
9 this plat together, the calculate all the tracts that were within that circle they
10 calculate the acreage that each tract contributes to that...to that unit. I really can't
11 tell you how they calculate it because I'm not an engineer. But they can calculate
12 the acreage by...I guess, (inaudible) or by computer or whatever.

13 PATTY WINEGAR: Okay. Then I did figure out how you came up
14 with the other percentages which came to be 3...32966. Now, I have a question,
15 how do you...when you refer to cubic feet, how does that convert to BTUs? When
16 you say that the well is capable of 300 million cubic feet, right, how do you convert
17 it? When you sell it, what's a fair market price for a million BTUs of natural gas?

18 DON HALL: I really couldn't answer that. BTUs there's a
19 calculation that you can convert cubic feet of gas to BTUs and it depends on the
20 type of gas it is whether it's...some gas is richer in hydrocarbons than others and
21 they have higher BTU. I...I...again, that's an engineering calculation that I'm not
22 familiar with. I really don't know how to...how to answer that.

23 PATTY WINEGAR: Okay. I have another question. When you say
24

1 you pay a \$100 per lease that that's a generous offer and then you pay royalties,
2 explain the one-eighth royalty that you talk about and the five dollars per year?
3 How does that all add up in dollar figures?

4 DON HALL: Well, when they approached you concerning a lease, if
5 you owned more than...your gross acreage in this unit is .3715 acres, which is just
6 little over a third of an acre, and we take a five year lease and we normally pay a
7 five dollar bonus for the first year and three dollars a year for the next four years.
8 That's what's called a delay rental. But if you have...as I explained earlier, if you
9 have, you know, a 100 acres, that's going to be a lot of money if it's...if it's a third
10 of an acre, \$17 times a third of an acre is not going to give...it's going to be
11 negligible. So, each one of these small interest owners, we have a minimum
12 payment of a \$100 to...I mean, we don't want to come offer you a \$1.70 for a
13 lease. We offer a \$100. But your percentage is so small, that's the reason
14 that...that it's done that way.

15 PATTY WINEGAR: But my question is this, okay, so what if
16 you...how many wells would you put on say the 40 what acre...42 acres?

17 DON HALL: Well, first of all, in this force pooling, this is one well
18 we're talking about and then this force pooling we're only taking in the portion that
19 falls within the circle. So, if we were to ever drill...drill a well...that would take it in
20 again, we either have to attempt to lease it or force pool it. This only affects this
21 particular well.

22 PATTY WINEGAR: Okay.

23 JIM KAISER: See there's only 7.43 acres of the 42 acres that are in
24

1 the unit. So, it's conceivable that if they drilled an additional well to the northeast
2 that the rest of that tract would be in that unit.

3 PATTY WINEGAR: Uh-huh. But...but my question is this...and it
4 cost me a day of vacation by the way, which I hope to get reimbursed for. My
5 question is this, say you pay each Heir a \$100 and so...okay, let's say natural gas,
6 okay, say you had 300 million BTUs at \$14. I think that's probably a fair market
7 price for natural gas.

8 DON HALL: Well---.

9 PATTY WINEGAR: You're looking at---?

10 JIM KAISER: We wish.

11 PATTY WINEGAR: ---what?

12 DON HALL: You'd get...you'd get a one-eighth royalty if...let's
13 assume that...let's assume it pays \$64 a month.

14 PATTY WINEGAR: Okay.

15 DON HALL: I'm I figuring that right...yeah. You'd get one-eighth,
16 which would be eight dollars a month. I mean, that would be the royalty
17 applicable to this...to this unit. But then that would be reduced by the percentage
18 of the acreage that you have in the unit.

19 PATTY WINEGAR: Uh-huh. I understand that. But, I mean, I'm
20 little familiar with, how I shall I say, purchasing natural gas. I'll say \$14 per million
21 BTU is a fair market price. I...I don't claim to be a rocket scientist. However,
22 when I look at this paper and I see that you're willing to put in, what was it, 420
23 some...\$420,457 for your expense and then legal fees were a good amount.

24

--

1 JIM KAISER: No, negligible.
2 (Laughs.)
3 PATTY WINEGAR: Yeah. Well, I'm comparing your wages to mine.
4 And then also I was curious, are there government regulations that require you to
5 measure how much gas that you take from the property?
6 DON HALL: We have a...we have meter the gas. We don't want to
7 sell any less gas than we have and they don't want to buy any more gas than
8 we're giving them. So, it's metered.
9 PATTY WINEGAR: What kind of flow meters do you use to
10 measure it?
11 DON HALL: Bartons, I think.
12 PATTY WINEGAR: And are they ISO regulated?
13 DON HALL: I'm sure they are.
14 PATTY WINEGAR: Well, why do you not have the cost down on
15 measurement, (inaudible) on your cost statement?
16 DON HALL: I can't answer that.
17 PATTY WINEGAR: So, you have to report anything that you
18 remove from the property?
19 DON HALL: Say...say that again.
20 PATTY WINEGAR: Like any of the gas, oil or anything?
21 DON HALL: Yes...yes, the state gets that information, the Division
22 of Gas and Oil.
23 PATTY WINEGAR: Well, I guess my...like I said, I'm not here to
24

1 gain a well, but my...my statement is this, if you're willing to put that much money
2 into removing it, then there has got to be gold in them hills. So, a \$100 a person
3 for you to remove that just didn't seem like a fair amount of money and a few
4 cents a year for royalties.

5 DON HALL: Well, when you own...when you own a third of an acre,
6 I mean---

7 PATTY WINEGAR: Like I said, I know...what is that? 5% of it, that's
8 what it calculates to be, 5%. But I'm just saying, there's money to be had if you're
9 willing to put that much money in expense.

10 DON HALL: Well, we're in the business to make money, yeah.

11 PATTY WINEGAR: Well, I know. I gathered that right up front.

12 JIM KAISER: That wouldn't be 5%. It wouldn't be any near 5%.

13 If...in your...so, what you want to do then, if that's your prospective on this, is that
14 you would want to elect to participate.

15 DON HALL: Yeah. You can become a partner and put your money
16 up.

17 JIM KAISER: You can become a partner.

18 PATTY WINEGAR: Well, I probably have at least thirty days, I
19 understood you to say,---.

20 JIM KAISER: Right.

21 DON HALL: Yeah.

22 PATTY WINEGAR: ---to make that decision. But what I'm asking is
23 you pay a \$100 up front, why not a flat percentage of the profits?

24

--

1 DON HALL: You're getting a one-eighth of the profits.

2 PATTY WINEGAR: One-eighth of the profits.

3 DON HALL: Yeah,

4 PATTY WINEGAR: And you---.

5 JIM KAISER: A pro-rata's share.

6 DON HALL: Yeah, a pro-rata share.

7 PATTY WINEGAR: And you send it out in writing?

8 DON HALL: Yeah, we send you checks.

9 JIM KAISER: Yeah, either...either the lease will stipulate that you

10 get a one-eighth royalty or if you're subject to the Board order, which in this case

11 you would be unless you decide to lease, and then we would dismiss you out

12 later. The Board order stipulates that you receive a one-eighth after the

13 deduction of certain post production costs so that you would either be controlled

14 by the lease or by the order.

15 PATTY WINEGAR: And I would also like to further state that

16 whoever your representative is that's going around and soliciting signatures was

17 somewhat less than honest with my sister when he led her to believe that he had

18 received my signature in order to get hers. That's all I have to say about that.

19 SCOTT WISHOUN: I don't think that comment is true.

20 DON HALL: This is the one...this is the guy you're talking about

21 right here.

22 PATTY WINEGAR: I thought it was you. Anyway, I never met you.

23 But my youngest sister---.

24

~ ~

1 SCOTT WISHOUN: I met your husband.

2 PATTY WINEGAR: She said that when you came to visit her to get
3 her signature you told her that you had been my house and it led her to believe
4 that I had signed the lease already.

5 SCOTT WISHOUN: Actually, everyone I show who has signed and
6 who hasn't.

7 PATTY WINEGAR: Okay. Thank you.

8 DON HALL: Yes.

9 BENNY WAMPLER: Do you have anything further, Mr. Kaiser?

10 JIM KAISER: Mr. Chairman, we'd ask that the application be
11 approved as submitted.

12 PEGGY BARBAR: Motion to approve.

13 BENNY WAMPLER: Motion to approve. Is there a second?

14 MARY QUILLEN: Second.

15 BENNY WAMPLER: Motion is second. Any further discussion?
16 (No audible response.)

17 BENNY WAMPLER: All in favor, signify by saying yes.
18 (All members signify by saying yes, but Donnie Ratliff.)

19 BENNY WAMPLER: Opposed, say no.
20 (No audible response.)

21 BENNY WAMPLER: You have approval.

22 DONALD RATLIFF: I abstain, Mr. Chairman.

23 BENNY WAMPLER: One abstention, Mr. Ratliff. The next item on
24

1 that agenda is a petition from Equitable Production Company for pooling of
2 conventional gas unit V-536888. This is docket number VGOB-06-0418-1623.
3 We'd ask the parties that wish to address the Board in this matter to come forward
4 at this time.

5 JIM KAISER: Mr. Chairman, again, Jim Kaiser and Don Hall on
6 behalf of Equitable Production Company.

7 BENNY WAMPLER: The record will show no others. You may
8 proceed.

9 DON HALL

10 DIRECT EXAMINATION

11 QUESTIONS BY MR. KAISER:

12 Q. Mr. Hall, are you familiar with the application that we filed
13 seeking to establish a unit and pool any unleased interest for EPC well number V-
14 536888, which was dated March the 17th, 2006?

15 A. Yes.

16 Q. Does Equitable own drilling rights in the unit involved
17 here?

18 A. We do.

19 Q. And prior to filing of the application, were efforts made to
20 contact each of the respondents and an attempt made to work out a voluntary
21 lease for any of the respondents within the unit?

22 A. Yes.

23 Q. And what is the interest under lease to Equitable within the
24

1 unit?

2 A. We have 87.93% leased.

3 Q. And are all unleased parties set out in Exhibit B-3?

4 A. Yes.

5 Q. So, the interest that remains unleased 12.070%?

6 A. That's correct.

7 Q. And we do not have any unknown or unlocateable owners

8 within the unit?

9 A. No.

10 Q. And are the addresses set out at Exhibit B to the

11 application, the last known addresses for the respondents?

12 A. They are.

13 Q. Are you requesting this Board to force pool the unleased

14 interest in Tract 3 as set out in Exhibit B-3?

15 A. Yes.

16 Q. Are you familiar with the fair market value of drilling rights

17 in the unit here and in the surrounding area?

18 A. Yes.

19 Q. Could you advise the Board as to what those are?

20 A. A five dollar bonus with a five year term with a one-eighth

21 royalty.

22 Q. In your opinion, do the terms that you just testified to

23 represent the fair market value of and fair and reasonable compensation to be

24

1 paid for drilling rights within this unit?

2 A. Yes.

3 JIM KAISER: As to any statutory election options afforded Mr. Ball,

4 the unleased party, Mr. Chairman, I'd ask that the testimony previously taken in

5 docket item number 1618 be incorporated for purposes of this hearing.

6 BENNY WAMPLER: That will be incorporated.

7 Q. And the Board does not need to establish an escrow

8 account for this unit, is that correct?

9 A. That's correct.

10 Q. And who should be named operator under any force

11 pooling order?

12 A. Equitable Production Company.

13 Q. And what's the total depth of the proposed well under the

14 plan development?

15 A. 6240 feet.

16 Q. The estimated reserves for this unit?

17 A. 250 million cubic feet.

18 Q. Has an AFE has been reviewed, signed and submitted to

19 the Board as Exhibit C?

20 A. It has.

21 Q. In your opinion, does it represent reasonable estimate of

22 the well costs?

23 A. Yes.

24

1 Q. Could you state for the Board what those costs are?

2 A. The dry hole costs is \$254,560 and the completed well
3 costs is \$500,155.

4 Q. Do these costs anticipate a multiple completion?

5 A. They do.

6 Q. Does your AFE include a reasonable charge for
7 supervision?

8 A. Yes.

9 Q. In professional opinion, would the granting of this
10 application be in the best interest of conservation, the prevention of waste and the
11 protection of correlative rights?

12 A. Yes.

13 JIM KAISER: Nothing further of this witness at this time, Mr.
14 Chairman.

15 BENNY WAMPLER: Questions from members of the Board?

16 BILL HARRIS: Mr. Chairman.

17 BENNY WAMPLER: Mr. Harris.

18 BILL HARRIS: I had a question about the unleased party. In your
19 Exhibit B for Tract 3, it shows Terry D. Ball and Lisa K. Ball as unleased. This is
20 page one of two for that.

21 DON HALL: Uh-huh. Yes.

22 BILL HARRIS: But when I turn to B-3 at the end, it has them for the
23 coal...for the gas estate only, but it's Tract 2 there. Is that---?

24

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1 JIM KAISER: It's a mistake.

2 DON HALL: Yeah, a mistake.

3 JIM KAISER: It should be Tract 3.

4 DON HALL: It should be---.

5 BILL HARRIS: Because I thought I heard you say Tract 3, but then

6 when I---.

7 DON HALL: It should be...it should be 3, yeah.

8 JIM KAISER: Yeah.

9 BILL HARRIS: Okay. That's...I was just confused. Okay, thank you.

10 BOB WILSON: Mr. Chairman.

11 BENNY WAMPLER: Mr. Wilson. I'd just for the record remind

12 Board that included in their package was a letter from Terry D. Ball regarding this

13 particular pooling application.

14 JIM KAISER: I didn't get a copy.

15 DON HALL: We didn't get a copy.

16 JIM KAISER: We didn't get one this time.

17 BENNY WAMPLER: You don't have it?

18 JIM KAISER: Usually Tera will send it to us too.

19 BOB WILSON: Yeah.

20 JIM KAISER: I think most Board members are familiar with that

21 name.

22 BOB WILSON: I guess, I can give you something. I need that back.

23 JIM KAISER: I guess, Ms. Winegar's daughter is quit when I get

24

1 back.

2 (Laughs.)

3 DON HALL: Here you go.

4 JIM KAISER: She's a high school girl. We let her do it...try to do

5 something nice. She's doing an internship.

6 BENNY WAMPLER: I'll let you all read that. It basically goes to the

7 concern over the law and too low of a payment.

8 (Everyone reads the letter.)

9 JIM KAISER: I keep trying to find his interest on eBay.

10 BENNY WAMPLER: Pardon?

11 JIM KAISER: I keep trying to find his interest on eBay. He keeps

12 saying he tries...he has been trying to sell it on eBay.

13 DON HALL: We have continuously made efforts to lease Mr. Ball.

14 JIM KAISER: We thought we almost had him this time, didn't we?

15 DON HALL: Yeah.

16 BENNY WAMPLER: Do you have any response to the letter?

17 JIM KAISER: It's the same thing he always submits.

18 DON HALL: And like I said, we have made the efforts to negotiate

19 with him and just don't get anywhere.

20 BENNY WAMPLER: Questions from members of the Board?

21 BILL HARRIS: Let me just ask just in general, I remember years ago

22 asking about the one-eighth royalty and I think the young lady that was just here

23 probably had a similar question. I guess, it depends on which end you're on that

24

1 seems high or low or whatever. Is there any...I guess, this is just a general
2 question for discussion, is there any move in the State by non-company folks, I'm
3 sure, to increase that percentage? How would that be done if a person wanted to
4 get more than a one-eighth, I mean, other than, you know, participate?

5 JIM KAISER: You would negotiate through your lease.

6 BILL HARRIS: But in terms of the one-eighth, I mean, that's...I don't
7 want to say---.

8 JIM KAISER: It's an industry standard that has been set and has
9 been in place for years.

10 BILL HARRIS: But it's customary though, right?

11 JIM KAISER: Customary and it, you know, came about because that
12 was a rate that the operators and producers deemed fair and fit the economics of,
13 you know, producing the gas and still being able to produce at some sort of a
14 profit.

15 BILL HARRIS: I was just curious. I just wondered how it...well,
16 anyway, that's okay. Thank you.

17 BENNY WAMPLER: Other questions from members of the Board?

18 (No audible response.)

19 BENNY WAMPLER: Do you have anything further?

20 JIM KAISER: Mr. Chairman, we'd ask that the application be
21 approved as submitted.

22 BENNY WAMPLER: Is there a motion?

23 (No audible response.)

24

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1 MARY QUILLEN: Motion to approve.

2 PEGGY BARBAR: I'll second.

3 (All members signify by saying yes, but Donald Ratliff.)

4 BENNY WAMPLER: Opposed, say no.

5 (No audible response.)

6 BENNY WAMPLER: You have approval.

7 DONALD RATLIFF: I abstain, Mr. Chairman.

8 BENNY WAMPLER: Mr. Ratliff abstains. The next item on the
9 agenda is a petition from Chesapeake Appalachia, LLC for a well location
10 exception for proposed well 825526. This is docket number VGOB-06-0418-
11 1624. We'd ask the parties that wish to address the Board in this matter to come
12 forward at this time.

13 JIM KAISER: Mr. Chairman and Board members, Jim Kaiser on
14 behalf of Chesapeake Appalachia, LLC. My witness in this matter will be Mr. Stan
15 Shaw. We'd ask that he be sworn at this time.

16 (Stan Shaw is duly sworn.)

17 BENNY WAMPLER: You may proceed.

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STAN SHAW

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Shaw, you've testified, I think, for the first time last month before the Gas and Oil Board. But could you, again, state who you work for and in what capacity?

A. My name is Stan Shaw. I work for Chesapeake Appalachia as a reservoir engineer.

Q. And your responsibilities include the land involved in this unit and in the surrounding area?

A. Yes.

Q. And you're familiar with the application that we filed seeking a location exception for well 825526?

A. Yes.

Q. And have all interested parties been notified as required by Section 4(B) of the Virginia Gas and Oil Board Regulations?

A. They have.

Q. And would you indicate for the Board the ownership of the oil and gas underlying the unit for well number 825526?

A. Chesapeake Appalachia owns 100%.

Q. And we are seeking an exception from well 825525, which is another Chesapeake well and Chesapeake would have...proposed well and

1 they would have the right to operate that reciprocal well, is that right?

2 A. Yes.

3 Q. So, there are no correlative rights issues?

4 A. Correct.

5 Q. Okay. And this location exception is being sought...we

6 don't have an exhibit for the Board because it's strictly a coal estate, coal owner

7 driven location exception, is that correct?

8 A. Yes.

9 Q. This is the site that was actually picked by the coal owner

10 and operator?

11 A. Yes.

12 Q. Okay. And in the event this location exception were not

13 granted, would you project the estimated reserves for the unit that would be lost

14 and result...would be resulting in waste?

15 A. 400 million cubic feet.

16 Q. And the total depth of this proposed well?

17 A. 5,450.

18 Q. And is the applicant requesting that this location exception

19 cover conventional gas reserves to include the designated formations that are

20 included in the application from the surface to the total depth drilled?

21 A. Yes.

22 Q. In your opinion, would the granting of this location

23 exception be in the best interest of preventing waste, protecting correlative rights

24

1 and maximizing the recovery of gas reserves underlying the unit for 825526?

2 A. Yes.

3 JIM KAISER: Nothing further of this witness at this time, Mr.
4 Chairman.

5 BENNY WAMPLER: Questions from members of the Board?

6 (No audible response.)

7 BENNY WAMPLER: Do you have anything further?

8 JIM KAISER: Mr. Chairman, we'd ask that the application be
9 approved as submitted.

10 BENNY WAMPLER: Do I have a motion?

11 BILL HARRIS: Motion for approval.

12 DONALD RATLIFF: Second.

13 BENNY WAMPLER: Any further discussion?

14 (No audible response.)

15 BENNY WAMPLER: All in favor, signify by saying yes.

16 (All members signify by saying yes.)

17 BENNY WAMPLER: Opposed, say no.

18 (No audible response.)

19 BENNY WAMPLER: You have approval. Next is a petition from
20 Chesapeake Appalachia, LLC for pooling of conventional gas unit 825526. This
21 is docket number VGOB-06-0418-1625. We'd ask the parties that wish to
22 address the Board in this matter to come forward at this time.

23 JIM KAISER: Mr. Chairman, in this matter it will be Jim Kaiser, Stan
24

1 Shaw and then we're adding Ms. Lynette Green to testify as to the land matters.

2 So, we'd ask that she be sworn at this time.

3 (Lynette Green is duly sworn.)

4 BENNY WAMPLER: The record will show not others. You may
5 proceed.

6

7 LYNETTE GREEN

8 having been duly sworn, was examined and testified as follows:

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. KAISER:

11 Q. Now, we'll start with Ms. Green. Ms. Green, if you could
12 once again for the Board state who you're employed and in what capacity?

13 A. My name is Lynette Green. I'm a senior land
14 representative for Chesapeake Appalachia.

15 Q. And your responsibilities at least for right now, for today,
16 include this unit and this well?

17 A. True.

18 Q. And this will be their last chance to pick on you, right?

19 A. I'm the last on the list.

20 JIM KAISER: We'll have a new Virginia witness. There has been
21 some changing around in duties and stuff, I guess. We'll back to Dennis Baker
22 next month. I know some of you all probably remember him from the Equitable
23 days.

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1 Q. Are you familiar with the application that Chesapeake filed
2 seeking to establish a unit and to pool any unleased interest for well 825526,
3 which was dated March the 17th, 2006?

4 A. I am.

5 Q. And does Chesapeake own drilling rights in the unit
6 involved here?

7 A. Yes.

8 Q. And prior to the filing of the application, were efforts made
9 to contact each of the respondents within the unit regarding the negotiation of a
10 voluntary lease?

11 A. Yes.

12 Q. And what is the interest of Chesapeake under lease within
13 a unit at this time?

14 A. Under lease at this time is 79.600625%.

15 Q. And then unleased...the portion of the unit that remains
16 unleased at this time?

17 A. 20.399375%.

18 Q. And are all the unleased parties set out in our Exhibit B-3
19 to the application?

20 A. Yes.

21 Q. Okay. In this particular case, we do not have any unknown
22 or unlocateables. We were able to identify everybody having an interest within
23 the unit, is that correct?

24

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1 A. That's true.

2 Q. And are the addresses set out in Exhibit B to the

3 application the last known addresses for the respondents?

4 A. Yes.

5 Q. Are you requesting this Board to force pool all unleased

6 interest listed at Exhibit B-3 to the application?

7 A. Yes.

8 Q. Are you familiar with the fair market value of drilling rights

9 in the unit here and in the surrounding area?

10 A. Yes, I am.

11 Q. Could you advise the Board as to what those are?

12 A. A five year bonus for a five year term and one-eighth

13 royalty.

14 Q. In your opinion, do the terms you've just testified to

15 represent the fair market value of and the fair and reasonable compensation to be

16 paid for drilling rights within this unit?

17 A. Yes.

18 Q. As to the respondents who remain unleased, who are listed

19 at Exhibit B-3, do you agree that they be allowed the following statutory options

20 with respect to their ownership interest within the unit: 1) Participation;

21 2) a cash bonus of five dollars per net mineral acre plus a

22 one-eighth of eight-eighths royalty; or 3) in lieu of a cash

23 bonus and one-eighth of eight-eighths royalty share in the

24

1 operation of the well on a carried basis as a carried
2 operator under the following conditions: Such carried
3 operator shall be entitled to the share of production from
4 the tracts pooled accruing to his/her interest exclusive of
5 any royalty or overriding royalty reserved in any leases,
6 assignments thereof or agreements relating thereto of such
7 tracts, but only after the proceeds applicable to his or her
8 share equal, A) 300% of the share of such costs applicable to
9 the interest of the carried operator of a leased tract or
10 portion thereof; or B) 200% of the share of such costs
11 applicable to the interest of a carried operator of an
12 unleased tract or portion thereof?

13 A. Yes.

14 Q. Do you recommend that the order provide that
15 elections by the respondents be in writing and sent to the
16 applicant at Chesapeake Appalachia, LLC, 900 Pennsylvania
17 Avenue, Charleston, West Virginia 25362, Attention: Donna
18 Sneider?

19 A. Yes.

20 Q. Should this be the address for all communi-
21 cations with the applicant concerning any force pooling
22 order?

23 A. It should.

24

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1 Q. Do you recommend that the order provide that
2 if no written election is properly made by a respondent, then
3 such respondent should be deemed to have leased or deemed to
4 have elected the cash and royalty option in lieu of
5 participation?

6 A. Yes.

7 Q. Should the unleased respondents be given 30
8 days from the date that they receive the recorded Board order
9 to file their written elections?

10 A. Yes.

11 Q. If an unleased respondent elects to
12 participate, should they be given 45 days to pay the
13 applicant for the respondents proportionate share of actual
14 completed well costs?

15 A. Yes.

16 Q. Does the applicant expect the party electing
17 to participate to pay in advance that party's share of actual
18 completed well costs?

19 A. We do.

20 Q. Should the applicant be allowed 120 days
21 following the recordation date of the Board order and
22 thereafter annually on that date until production is
23 achieved, to pay or tender any cash bonus or delay rental
24

1 becoming due under any force pooling order?

2 A. Yes.

3 Q. Do you recommend that the order provide that
4 if a respondent elects to participate but fails to pay their
5 proportionate share of well costs, then that respondent's
6 election to participate should be treated as having been
7 withdrawn and void and they would be deemed to have leased?

8 A. We do.

9 Q. Do you recommend that the order provide that
10 when a respondent elects to participate but defaults in
11 regard to the payment of those well costs that any cash sum
12 due and owing to that respondent be paid within 60 days...be
13 paid by the operator within 60 days after the last date on
14 which such respondent could have made those payments?

15 A. Yes.

16 Q. Okay. In this particularly case, it's a
17 conventional well and we don't have any unknown or
18 unlocateable owners. So, the Board does not need to
19 establish an escrow account, is that correct?

20 A. That's correct.

21 Q. And who should be named operator under the
22 force pooling order?

23 A. Chesapeake Appalachia, LLC.

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--

1 JIM KAISER: Nothing further of this witness at
2 this time, Mr. Chairman.

3 BENNY WAMPLER: Any questions of this witness?
4 (No audible response.)

5 BENNY WAMPLER: Call your next witness.

6 JIM KAISER: You know what, I've got revised
7 exhibits.

8 LYNETTE GREEN: For this one.

9 SHARON PIGEON: You see why you're always on the
10 end of the docket.

11 (Laugh.)

12 JIM KAISER: Huh?

13 LYNETTE GREEN: It was his tone. Did you hear him
14 reading? It was his tone.

15 JIM KAISER: Huh?

16 LYNETTE GREEN: Your tone as you were reading.

17 JIM KAISER: Oh.

18 LYNETTE GREEN: So, you have a revised exhibit?

19 JIM KAISER: I think we had an address change or
20 something. It's actually...no, we must have picked up
21 another lease. We're saying 20% unleased. This revised is
22 saying 19.

23 LYNETTE GREEN: I have 20.

24

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1 JIM KAISER: All right. I'll tell you what we've
2 got. BENNY WAMPLER: Yeah, this has just changed.
3 LYNETTE GREEN: Do you think it was the
4 calculations that changed?
5 JIM KAISER: Yeah, maybe it was the calculation
6 that changed. No.
7 LYNETTE GREEN: Who did we pick up?
8 JIM KAISER: We picked up Deborah LeHeigh.
9 LYNETTE GREEN: Did we get her leased? Is it into
10 us now?
11 JIM KAISER: Uh-huh. Yeah.
12 LYNETTE GREEN: I just talked to Larry.
13 JIM KAISER: Oh, I don't know. Okay, let's go back
14 to your testimony.
15 LYNETTE GREEN: So, what is the percentages?
16 SHARON PIGEON: You've got a problem here with that
17 witness not...
18 JIM KAISER: Huh?
19 (No audible response.)
20 (Jim Kaiser and Lynette Green confer.)
21 JIM KAISER: Yeah, that's the only change, would be
22 that...from the exhibit that was filed from the application
23 would be that Deborah LeHeigh, who owns a small undivided
24

1 interest in Tract 5, went from unleased to leased. So, our
2 unleased portion would now be 19.992901%. I'm sorry. Ms.
3 Green, are we continuing at this time to...attempting to
4 obtain leases from the other parties that are unleased within
5 this unit?

6 LYNETTE GREEN: Especially on Tract 5, the Rebecca
7 Barnes, John Duty, John Thompson and Tract 6 Norma Whited.
8 These are all in the mail to us. We just don't have them
9 yet.

10 JIM KAISER: So, when we filed our supplemental
11 order it's going to show a considerably larger percentage of
12 the unit under lease?

13 LYNETTE GREEN: Yes.

14 JIM KAISER: In fact, I guess, it's conceivable
15 that it could become a completely voluntary unit at some
16 point?

17 LYNETTE GREEN: No, we still---.

18 JIM KAISER: No?

19 LYNETTE GREEN: ---have---.

20 JIM KAISER: Oh, Dorsey Gene Belcher won't lease.

21 LYNETTE GREENE: No, he says when we can change his
22 lifestyle he'll lease to us.

23 BILL HARRIS: Is that that one-eighth royalty

24

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1 speaking again, not enough?

2 JIM KAISER: Okay. Do you have any questions, Ms.
3 Pigeon? I'm sorry.

4 SHARON PIGEON: I think we should have had you
5 sworn on this one. That's all I would comment on.

6 JIM KAISER: Well, I'll be glad to be sworn.

7 BENNY WAMPLER: Well, what we need is...do you have
8 this revised list?

9 LYNETTE GREEN: I have the list, but I don't have
10 the percentage that he...he has.

11 BENNY WAMPLER: Will you show that to her?

12 JIM KAISER: Sure. In fact, I'll give that to you
13 her and then I'll ask her.

14

15 LYNETTE GREEN

16 DIRECT EXAMINATION RESUMES

17 QUESTIONS BY MR. KAISER:

18 Q. Ms. Green, review the revised exhibit.

19 Would it be your opinion after reviewing that the unleased
20 percentage has changed from your testimony just a couple of
21 minutes ago?

22 A. Yes, by the lease that we acquired from
23 Deborah LeHeigh.

24

--

1 Q. And so now the portion of the unit that is
2 under lease would be what?

3 A. The portion of the unit under lease, the
4 percentage is 8...excuse me, 80.007099 and unleased is
5 19.992901%.

6 JIM KAISER: I apologize. I just got going a
7 little too fast.

8 BENNY WAMPLER: Any questions of this witness?
9 (No audible response.)

10 BENNY WAMPLER: Call your next witness.

11

12 STAN SHAW

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. KAISER:

15 Q. Mr. Shaw, again state your name, who you're
16 employed by and in what capacity?

17 A. My name is Stan Shaw. I'm employed by
18 Chesapeake Appalachia as a reservoir engineer.

19 Q. And do your responsibilities include the
20 land involved here and in the surrounding area?

21 A. Yes.

22 Q. And you're familiar with the proposed
23 exploration of this unit?

24

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1 A. Yes.

2 Q. And, again, the total depth of this well?

3 A. 5,450 feet.

4 Q. And the estimated reserves for the unit?

5 A. 400 million cubic feet.

6 Q. And are you familiar with the well costs?

7 A. Yes.

8 Q. Has an AFE been reviewed, signed and

9 submitted to the Board as Exhibit C to the application?

10 A. Yes.

11 Q. In your opinion, does this AFE represent a

12 reasonable estimate of the well costs?

13 A. Yes.

14 Q. Could you state for the Board both the dry

15 hole costs and completed well costs for this well?

16 A. The estimated dry hole costs is \$273,992 and

17 the completed well costs is \$480,600.

18 Q. Do these costs anticipate a multiple

19 completion?

20 A. Yes.

21 Q. Does your AFE include a reasonable charge

22 for supervision?

23 A. Yes, it does.

24

25

1 Q. In your professional opinion, would the
2 granting of this application be in the best interest of
3 conservation, the prevention of waste and the protection of
4 correlative rights?

5 A. Yes.

6 MR. KAISER: Nothing further of this witness at
7 this time, Mr. Chairman.

8 BENNY WAMPLER: Questions of this witness?

9 (No audible response.)

10 BENNY WAMPLER: Do you have anything further?

11 JIM KAISER: We'd ask that the application be
12 approved somewhat as submitted. We're going to have to
13 provide you with a B-2, I guess, which I don't think was in
14 that package and a revised Exhibit B-3. All we gave you was
15 a B. So, with the caveat that we will probably by tomorrow
16 provide Mr. Wilson with a B-2 dismissing Ms. LeHeigh and in
17 B-3 taking her off the B-3. We'd ask that otherwise the
18 application be approved as submitted.

19 BENNY WAMPLER: Is there a motion?

20 BILL HARRIS: I move for approval with the stated
21 changes.

22 BENNY WAMPLER: Is there a second?

23 PEGGY BARBAR: Second.

24

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1 BENNY WAMPLER: Motion is second. Any further
2 discussion?

3 (No audible response.)

4 BENNY WAMPLER: All in favor, signify by saying
5 yes.

6 (All members signify by saying yes.)

7 BENNY WAMPLER: Opposed, say no.

8 (No audible response.)

9 BENNY WAMPLER: You have approval. The next item
10 on the agenda is a petition from Chesapeake Appalachia, LLC
11 for pooling of conventional gas unit 825525. This is docket
12 number VGOB-06-0418-1626. We'd ask the parties that wish to
13 address the Board in this matter to come forward at this
14 time.

15 JIM KAISER: Mr. Chairman, it will be Jim Kaiser,
16 Lynette Green and Stan Shaw again for Chesapeake Appalachia,
17 LLC. We do not have any revised exhibits for this well.

18 BENNY WAMPLER: The record will show no others.

19 JIM KAISER: It does involve a lot of the same
20 parties.

21 BENNY WAMPLER: You may proceed.

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23 LYNETTE GREEN

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DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Ms. Green, we'll start again with you. If you'll again state your name for the Board, who you're employed by and in what capacity?

A. Lynette Green as a senior land representative for Chesapeake Appalachia.

Q. And do your responsibilities include the land involved here and in the surrounding area?

A. Yes.

Q. Are you familiar with Chesapeake's application seeking to establish a drilling unit and to pool any unleased interest for Chesapeake well 825525, which was dated March the 17th, 2006?

A. I am.

Q. And does Chesapeake own drilling rights in the unit involved here?

A. They do.

Q. And prior to the filing of the application, were efforts made to contact each of the respondents owning an interest and an attempt made to work out a voluntary lease agreement with each of them?

A. Yes.

Q. And what is the interest of Chesapeake that is under lease within the unit at this time?

A. 98.006330%.

1 Q. And the portion of the unit that remains unleased at this
2 time?

3 A. It's 1.933670%.

4 Q. And are all the unleased parties set out in Exhibit B-3?

5 A. Yes.

6 BENNY WAMPLER: Would you repeat the unleased?

7 A. 1.993670%.

8 Q. And are all the unleased parties set out in Exhibit B-3?

9 A. Yes, they are.

10 Q. And we do not have any unknown or unlocateable interest
11 owners within this unit, is that correct?

12 A. That's correct.

13 Q. And the addresses set out in Exhibit B to the application
14 are the last known addresses for the respondents?

15 A. True.

16 Q. Are you requesting this Board to force pool all unleased
17 interest listed at Exhibit B-3 to the application?

18 A. Yes.

19 Q. Are you familiar with the fair market value of drilling rights
20 in the unit here and in the surrounding area?

21 A. I am.

22 Q. Could you advise the Board as to what those are?

23 A. It's a five dollar bonus for a five year term and one-eighth
24

1 royalty.

2 Q. In your opinion, do the terms you've just testified to
3 represent the fair market value of and the fair and reasonable compensation to be
4 paid for drilling rights within this unit?

5 A. Yes.

6 JIM KAISER: Mr. Chairman, as to the statutory election options
7 afforded those respondents listed at Exhibit B-3, I'd ask that the testimony just
8 taken in docket number 1625 be incorporated for purposes of this hearing.

9 JIM KAISER: That will be incorporated.

10 Q. Ms. Green, we do not need...the Board does not need to
11 establish an escrow account for this unit, is that correct?

12 A. That's correct.

13 Q. And who should be named operator under the
14 force pooling order?

15 A. Chesapeake Appalachia, LLC.

16 JIM KAISER: Thank you. Nothing further of this
17 witness at this time, Mr. Chairman.

18 BENNY WAMPLER: Questions from members of the Board
19 of this witness?

20 (No audible response.)

21 BENNY WAMPLER: Call your next witness.

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23 STAN SHAW

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1 DIRECT EXAMINATION

2 QUESTIONS BY MR. KAISER:

3 Q. Mr. Shaw, do your responsibilities include
4 the land involved here and in the surrounding area?

5 A. Yes.

6 Q. And you're familiar with the proposed plan
7 of exploration for this well?

8 A. Yes.

9 Q. And what's the total depth of this well?

10 A. 5,405 feet.

11 Q. And the estimated reserves?

12 A. 400 million cubic feet.

13 Q. Has an AFE been reviewed, signed and
14 submitted to the Board as Exhibit C to the application?

15 A. Yes.

16 Q. In your opinion, does it represent a
17 reasonable estimate of the well costs?

18 A. Yes.

19 Q. Could you state the well costs for this well
20 for the Board?

21 A. The estimated dry hole costs are \$257,747
22 and the completed well costs are \$464,030.

23 Q. Do these costs anticipate a multiple
24
25

1 completion?

2 A. Yes.

3 Q. Does your AFE include a reasonable charge

4 for supervision?

5 A. It does.

6 Q. In your professional opinion, would the

7 granting of this application be in the best interest of

8 conservation---?

9 A. Yes.

10 Q. ---the prevention of waste and the

11 protection of correlative rights?

12 A. Yes.

13 MR. KAISER: Nothing further of this witness at

14 this time, Mr. Chairman.

15 BENNY WAMPLER: Questions from members of the

16 Board?

17 (No audible response.)

18 BENNY WAMPLER: Do you have anything further?

19 JIM KAISER: We would ask that this application be

20 approved as submitted.

21 DONALD RATLIFF: I move to approve, Mr. Chairman.

22 BENNY WAMPLER: Motion to approve. Is there a second?

23 BILL HARRIS: Second.

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1 BENNY WAMPLER: Any further discussion?
2 (No audible response.)
3 BENNY WAMPLER: All in favor, signify by saying yes.
4 (All members signify by saying yes.)
5 BENNY WAMPLER: Opposed, say no.
6 (No audible response.)
7 BENNY WAMPLER: You have approval. Thank you.
8 JIM KAISER: Thank you.
9 BENNY WAMPLER: And finally, you received a copy of the minutes
10 from the last meeting. Any suggested changes? Otherwise, I'll entertain a motion
11 for approval.
12 MARY QUILLEN: Motion to approve.
13 PEGGY BARBAR: I'll second.
14 BENNY WAMPLER: Second. Any further discussion?
15 (No audible response.)
16 BENNY WAMPLER: All in favor, signify by saying yes.
17 (All members signify by saying yes.)
18 BENNY WAMPLER: Opposed, say no.
19 (No audible response.)
20 BENNY WAMPLER: You have approval. Anything else, Mr.
21 Wilson?
22 BOB WILSON: Public comment.
23 BENNY WAMPLER: Public comment period.
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1 PETER GLUBIACK: I know you've had a long morning. I just have
2 two...two items. First, Peter Glubiack, attorney. My first comment is that I was not
3 able to be here at the March meeting. I understand that you passed it. But I'd like
4 for future reference...I know there has been some comment about expenses and
5 royalty percentages and I think I like going forward. I think we made the point, but
6 we're not able to, obviously, persuade you to continue it. But I think when the
7 expenses come in on some of these projects, I think it would behoove you to get
8 some documentation on exactly what the expenses are and that they're being
9 done. I think it is...it is my position on VP8SGU3 that they are actually allocating
10 four and a half million dollars...CNX now, is allocating four and a half million
11 dollars for wells that they simply won't have to drill. I think for all of these
12 companies, Equitable included, the expenses are sometimes very significant.
13 You're given a great deal of authority to permit these people...these companies
14 essentially to take people's property and it's done under procedural guidelines
15 and everything else. One of the things they have to do is they have to say, and
16 this is what we expect it will cost. I think in some instances that evidence is not
17 there or it's not perfectly clear exactly what it is. I happen to be very firmly
18 convinced on SGU3 that those are just simply wells that aren't going to have to be
19 drilled. They are there.

20 Now, the second point is another expense point, and I'll make it
21 brief. It's not the first time I'll talk about and I have not been able to figure out how
22 to address it. In 1999, Mr. Sexton filed a case called Levisa Coal against CNX
23 and he won an approximately twelve and a half million dollar verdict against CNX

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1 for overcharging deductions when computing royalties. Now, that has since been
2 paid. My understanding is CNX has since settled with a number...with a large
3 number voluntary participates, people who have large blocks of coal that they
4 have leased and they have reached an agreement on.

5 However, I've had this brief conversation a couple of times with Mr.
6 Wilson, my understanding is back in 1992 when all of this started, Claude Morgan
7 and several other people had testified that we don't know what it's going to cost to
8 do this, but we think it's about a \$1.56 a 1,000...a 1,000 cubic feet and it has
9 stayed that despite a Federal Court cases brought in Abingdon, Appealed the
10 Fourth Circuit, which was affirmed saying that the expenses at more like .70
11 cents. And now there is another case in Federal Court, right here in Abingdon,
12 that says that the expenses are more like .30 cents. I think that at some point,
13 you know...you certainly have it within your power to revisit that issue. To my
14 knowledge, that issue was never formally adopted. There was no minutes of it. It
15 just became a common practice and when expenses are computed, after all they
16 pay royalty based on their net and expenses are a large factor there, and right
17 now to my knowledge all of those individuals for whom you are responsible, all the
18 claimants and all the people that are in escrow, are suffering a \$1.56 a 1,000 for
19 expenses when, in fact, a Federal Court right in this city has computed...that a jury
20 found that to be almost half of that. So, I'll leave it there. But I have had this
21 conversation...I don't know what to do about it. I can't... I...you know, it's probably
22 a good case for a Class Action. But I have not been able to---

23 BENNY WAMPLER: This Board has never had the first person to

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1 challenge before it---.

2 PETER GLUBIACK: To my knowledge, it really never even, and Mr.
3 Wilson can correct me, I'm not even sure that it was ever adopted. It just is and it
4 is because Mr. Morgan---.

5 BENNY WAMPLER: Not with this Board.

6 PETER GLUBIACK: ---said this is what we think it's going to be.
7 Everybody thought that was what it was going to be. The Levisa individuals came
8 in and went to Federal Court, challenged it and had a big trial and won a twelve
9 and a half million dollar verdict for over deductions and they are back in Court on
10 another case. So, you know, I think it behooves this Board to request something
11 more than their assurance that this is what we think the costs are. What are the
12 costs? I think we have a better handle on it now than we did fifteen years ago and
13 it's a lot of money.

14 BENNY WAMPLER: You're talking about costs beyond drilling the
15 well. You're talking about costs---.

16 PETER GLUBIACK: Operational costs.

17 BENNY WAMPLER: Operational costs.

18 PETER GLUBIACK: Transportation costs, compression costs,
19 deduction and all of those things. And my understanding is that working number
20 is a \$1.56 per 1,000 cubic feet.

21 BENNY WAMPLER: It's never...it's never been before this Board to
22 be adopted whatsoever.

23 PETER GLUBIACK: I understand that. I'm just saying that ironically

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1 that Mr. Sexton was the lead attorney on that case for Levisa and they received a
2 whopping verdict because a jury found that according to their...it was all leased.

3 BENNY WAMPLER: Right.

4 PETER GLUBIACK: According to their lease, the costs were
5 overinflated. I don't know that there's any difference between what Levisa's costs
6 are and...what CNX's costs are to pump Levisa gas versus CNX's costs to pump
7 Joe Smith's gas that you're administering in the escrow account. So, just a
8 thought. Thank you.

9 JIM KAISER: Let me make some public comments since he seemed
10 fit to open the door and particularly throw one of my clients in there. The Board
11 only has jurisdiction over unleased parties. So, in the force pooling process you
12 provide an AFE, which is supposed to be a reasonable estimate of the well costs.
13 The Board also has the power and maybe has done this in the past, I'm not sure,
14 to...I know has said they...if somebody brings it to their attention would go back
15 and check the AFEs against the actual well costs for the drilling of these wells to
16 see how reasonable and how good of an estimate they actual are. I don't think---

17 BENNY WAMPLER: And we have done that. We have done that
18 several times.

19 JIM KAISER: And you've done that and you found that they're pretty
20 darn good. I'd, you know...I guarantee for at least the clients that I represent
21 before this Board we have no problem with you checking how accurate are AFE
22 estimates are. Regarding the post production cost issue, the Board order, which
23 is the only thing they have jurisdiction over sets out exactly what can be deducted.

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1 As to whether or not those costs are reasonable or not, that's not their
2 (inaudible). That would be something that would have to be pursued in a Court of
3 law. So, there's my comments on your comments.

4 BENNY WAMPLER: Thank you. Thank you very much. Do you
5 have anything, Mr. Wilson?

6 BOB WILSON: No, sir.

7 BENNY WAMPLER: The hearing is concluded. Thank you all.

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10 STATE OF VIRGINIA,

11 COUNTY OF BUCHANAN, to-wit:

12 I, Sonya Michelle Brown, Court Reporter and Notary
13 Public for the State of Virginia, do hereby certify that the
14 foregoing hearing was recorded by me on a tape recording
15 machine and later transcribed under my supervision.

16 Given under my hand and seal on this the 9th day of
17 May, 2006.

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NOTARY PUBLIC

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My commission expires: August 31, 2009.

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